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LAWS

OF THE

STATE OF NEW YORK,

PASSED AT THE

ONE HUNDRED AND THIRTY-FIRST SESSION

OF THE

LEGISLATURE,

BEGUN JANUARY FIRST, 1908, AND ENDED APRIL TWENTY-THIRD, 1908, IN THE CITY OF ALBANY, AND INCLUDING EXTRAORDINARY SESSION, BEGUN MAY ELEVENTH, 1908, AND ENDED JUNE ELEVENTH, 1908.

VOL. II.



ALBANY
J. B. LYON COMPANY, STATE PRINTERS
1908

CERTIFICATE.

STATE OF NEW YORK,

OFFICE OF THE SECRETARY OF STATE,

ALBANY, *September* 1, 1908.

Pursuant to the directions of chapter 682, Laws of 1892, entitled "The Legislative Law," I hereby certify that the following volume of the Laws of this State was printed under my direction.

JOHN S. WHALEN,
Secretary of State.

In this volume, every act which received the assent of a majority of all the members of the Legislature, three-fifths of all the members elected to either House thereof being present, pursuant to section 25 of article 3 of the Constitution of this State, is designated under its title by the words "passed, three-fifths being present." And every act which received the assent of a majority of all the members elected to each branch of the Legislature, pursuant to section 15 of article 3 of the Constitution of this State, is designated under its title by the words "passed, a majority being present." And every act which received the assent of two-thirds of all the members elected to each branch of the Legislature, pursuant to section 20 of article 3 of the Constitution of this State, is designated under its title by the words "passed by a two-thirds vote." [See "The Legislative Law," chapter 682, Laws of 1892, as amended by chapter 53, Laws of 1894.]

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LIST OF OFFICERS.

"§ 45. Contents of published volumes of session laws—The Secretary of State shall annually cause * * * a statement of the names and residences of the Governor, Lieutenant-Governor, Senators and Members of Assembly and presiding officers of both Houses in office during each session * * * to be printed and bound. * * *." *Laws of* 1892, *Chap.* 682, *Sec.* 45.

NAMES AND RESIDENCES

OF THE GOVERNOR, LIEUTENANT-GOVERNOR, SENATORS, MEMBERS OF ASSEMBLY AND PRESIDING OFFICERS OF BOTH HOUSES OF THE LEGISLATURE OF THE STATE OF NEW YORK AT THE TIME OF THE PASSAGE OF THE LAWS CONTAINED IN THIS VOLUME.

GOVERNOR.

CHARLES EVANS HUGHES.....*ALBANY, ALBANY COUNTY.

LIEUTENANT-GOVERNOR.

LEWIS STUYVESANT CHANLER.....BARRYTOWN, DUTCHESS COUNTY.

CLERK OF THE SENATE.

LAFAYETTE B. GLEASON.....DELHI, DELAWARE COUNTY.

SENATORS.

District.	NAME.	County.	Address.
1..	Carll S. Burr, Jr.....	Suffolk.....	Commack.
2..	Dennis J. Harte.....	Queens.....	Long Island City.
3..	Thomas H. Cullen.....	Kings.....	Brooklyn.
4..	Otto G. Foelker.....	Kings.....	Brooklyn.
5..	James A. Thompson.....	Kings.....	Brooklyn.
6..	Eugene M. Travis.....	Kings.....	Brooklyn.
7..	Patrick H. McCarren.....	Kings.....	Brooklyn.
8..	Charles H Fuller.....	Kings.....	Brooklyn.
9..	Conrad Hasenflug.....	Kings.....	Brooklyn.
10..	Alfred J. Gilchrist.....	Kings.....	Brooklyn.
11..	Dominick F. Mullaney.....	New York.....	New York city.
12..	William Sohmer.....	New York.....	New York city.
13..	Christopher D Sullivan.....	New York.....	New York city.
14..	Thomas F. Grady.....	New York.....	New York city.
15..	Thomas J. McManus.....	New York.....	New York city.
16..	John T. McCall.....	New York.....	New York city
17..	George B. Agnew.....	New York.....	New York city.
18..	Martin Saxe.....	New York.....	New York city.
19..	Alfred R. Page.....	New York.....	New York city.
20..	James J. Frawley.....	New York.....	New York city.
21..	James Owens.....	New York.....	New York city.
22..	John P. Cohalan.....	New York.....	New York city.
23..	Francis M. Carpenter.....	Westchester.....	Mt. Kisco.
24..	John C. R. Taylor.....	Orange.....	Middletown.
25..	Sanford W. Smith.....	Columbia.....	Chatham.
26..	John N. Cordts.....	Ulster.....	Rondout.
27..	Jotham P. Allds.....	Chenango.....	Norwich.
28..	William J. Grattan.....	Albany.....	Cohoes.
29..	Frank M. Boyce.....	Rensselaer.....	East Schodack.

* Official residence.

SENATORS—(Continued).

District.	NAME.	County.	Address.
30..	H. Wallace Knapp	Clinton	Mooers.
31..	William W. Wemple	Schenectady	Schenectady.
32..	James A. Emerson	Warren	Warrensburgh.
33..	Seth G. Heacock	Herkimer	Ilion.
34..	William T. O'Neil	Franklin	St. Regis Falls.
35..	George H. Cobb	Jefferson	Watertown.
36..	Joseph Ackroyd	Oneida	Utica.
37..	Francis H. Gates	Madison	Chittenango.
38..	Horace White	Onondaga	Syracuse.
39..	Harvey D. Hinman	Broome	Binghamton.
40..	Owen Cassidy	Schuyler	Watkins.
41..	Benj. Martin Wilcox	Cayuga	Auburn.
42..	John Raines	Ontario	Canandaigua
43..	William J. Tully	Steuben	Corning.
44..	S. Percy Hooker	Genesee	Le Roy.
45..	Thomas B. Dunn	Monroe	Rochester.
46..	William W. Armstrong	Monroe	Rochester.
47..	Stanislaus P. Franchot*	Niagara	Niagara Falls.
	William C. Wallace	Niagara	Niagara Falls.
48..	Henry Wayland Hill	Erie	Buffalo.
49..	Samuel J. Ramsperger	Erie	Buffalo.
50..	George Allen Davis	Erie	Buffalo.
51..	Albert T. Fancher	Cattaraugus	Salamanca.

SPEAKER OF THE ASSEMBLY.

HON. JAMES W. WADSWORTH, JR.....Mount Morris, Livingston County.

CLERK OF THE ASSEMBLY.

HON. RAY B. SMITH.....Syracuse, Onondaga County.

MEMBERS OF ASSEMBLY.

District.	NAME.	County.	Address.
1..	Ellis J. Staley	Albany	Albany.
2..	William E. Nolan	Albany	Albany.
3..	Robert B. Waters	Albany	Green Island.
	Jesse S. Phillips	Allegany	Andover.
	Harry C. Perkins	Broome	Binghamton.
	John J. Volk	Cattaraugus	Dayton.
	Frederick A. Dudley	Cayuga	King Ferry.
1..	Augustus F. Allen	Chautauqua	Jamestown.
2..	Charles M. Hamilton	Chautauqua	Ripley.
	David C. Robinson	Chemung	Elmira.
	Julien C. Scott	Chenango	Bainbridge.
	Alonson T. Dominy	Clinton	Beekmantown.
	Lester J. Bashford	Columbia	Hollowville.
	Charles F. Brown	Cortland	Cortland.
	Henry J. Williams	Delaware	Downsville.
1..	Myron Smith	Dutchess	Millbrook.
2..	Frederick Northrup	Dutchess	Poughkeepsie.

* Died March 24, 1908. Wallace elected to fill vacancy May 12, 1908.

MEMBERS OF ASSEMBLY—(Continued).

District.	NAME.	County.	Address.
1..	Orson John Weimert	Erie	Buffalo.
2..	John Lord O'Brian	Erie	Buffalo.
3 .	George J Arnold	Erie	Buffalo.
4..	William Jordan	Erie	Buffalo.
5..	Edward P. Costello	Erie	Buffalo.
6..	Frank S. Burzynski	Erie	Buffalo.
7..	George W. Walters	Erie	Williamsville.
8..	Clarence Mac Gregor	Erie	Buffalo.
9..	Frank Bret Thorne	Erie	Orchard Park.
	James Shea	Essex	Lake Placid.
	Harry H. Hawley	Franklin	Malone.
	William Ellison Mills	Fulton and Hamilton.	Gloversville.
	Fred B. Parker	Genesee	Elba
	William C. Brady	Greene	Athens.
	Thomas D. Ferguson	Herkimer	Little Falls.
1..	Alfred D. Lowe	Jefferson	De Pauville.
2..	Gary H. Wood	Jefferson	Antwerp.
1..	Edmund R. Terry	Kings	Brooklyn.
2..	James Jacobs	Kings	Brooklyn.
3..	Arthur L. Hurley	Kings	Brooklyn.
4..	Andrew C. Troy	Kings	Brooklyn.
5..	Charles J. Weber	Kings	Brooklyn.
6..	Thomas J. Surpless	Kings	Brooklyn.
7..	Thomas J. Geoghegan	Kings	Brooklyn.
8..	John McBride	Kings	Brooklyn.
9..	George A. Voss	Kings	Brooklyn.
10..	Charles F. Murphy	Kings	Brooklyn.
11..	William W. Colné	Kings	Brooklyn.
12..	George A. Green	Kings	Brooklyn.
13..	John H. Donnelly	Kings	Brooklyn.
14..	James E. Fay	Kings	Brooklyn
15..	John J. Schutta	Kings	Brooklyn.
16 .	Michael J. Grady	Kings	Brooklyn.
17..	John R. Farrar	Kings	Brooklyn.
18..	Warren I. Lee	Kings	Brooklyn.
19..	John Holbrook	Kings	Brooklyn.
20..	Harrison C. Glore	Kings	Brooklyn.
21..	Samuel A. Gluck	Kings	Brooklyn.
22..	Emil Rose	Kings	Brooklyn.
23..	Isaac Sargent	Kings	Brooklyn.
	C. Fred Boshart	Lewis	Lowville.
	James W. Wadsworth Jr.	Livingston	Mount Morris.
	Orlando W. Burhyte	Madison	Brookfield.
1..	George F. Harris	Monroe	Webster.
2..	James L. Whitley	Monroe	Rochester.
3..	George L. Meade	Monroe	Rochester.
4..	Bernard J. Haggarty	Monroe	Rochester.
5..	Henry Morgan	Monroe	Brockport.
	T. Romeyn Staley	Montgomery	Amsterdam.
	William G. Miller	Nassau	Freeport.
1..	Thomas B. Caughlan	New York	New York city.
2..	Alfred E. Smith	New York	New York city.
3..	James Oliver	New York	New York city.
4..	Aaron J. Levy	New York	New York city.
5..	John T. Eagleton	New York	New York city.
6..	Adolph Stern	New York	New York city.

MEMBERS OF ASSEMBLY—(Continued).

District.	NAME.	County.	Address.
7..	Joseph W. Keller	New York	New York city.
8..	Moritz Graubard	New York	New York city.
9..	John C. Hackett	New York	New York city.
10..	Anthony M. McCabe	New York	New York city
11..	Frank K. Johnston	New York	New York city.
12..	James A. Foley	New York	New York city.
13..	James J. Hoey	New York	New York city.
14..	John J. Herrick	New York	New York city.
15..	William M. Bennett	New York	New York city.
16..	Martin G. McCue	New York	New York city.
17..	Frederick R. Toombs	New York	New York city.
18..	Mark Goldberg	New York	New York city.
19..	William B. Donihee	New York	New York city.
20..	Patrick J. McGrath	New York	New York city.
21..	Robert S. Conklin	New York	New York city.
22..	Robert F. Wagner	New York	New York city.
23..	James A. Francis	New York	New York city.
24..	Walter Spriggins	New York	New York city
25..	Artemas Ward, Jr	New York	New York city.
26..	Solomon Strauss	New York	New York city.
27..	Beverley R. Robinson	New York	New York city
28..	Edward W. Buckley	New York	New York city
29..	Walter H. Liebmann	New York	New York city.
30..	Louis A. Cuvillier	New York	New York city.
31..	Abraham Greenberg	New York	New York city.
32..	Jesse Silbermann	New York	New York city.
33..	Philip J. Schmidt	New York	New York city.
34..	George M. S. Schulz	New York	New York city.
35..	John V. Sheridan	New York	New York city.
1..	Charles F. Foley	Niagara	Lockport.
2..	W. Levell Draper	Niagara	Wilson.
1..	Merwin K. Hart	Oneida	Utica.
2..	Ladd J Lewis, Jr	Oneida	Sauquoit.
3..	Arthur G. Blue	Oneida	Barneveld.
1..	John C. McLaughlin	Onondaga	Jordan.
2..	Fred W. Hammond	Onondaga	Syracuse.
3..	J. Henry Walters	Onondaga	Syracuse.
	George B. Hemenway	Ontario	Naples.
1..	Henry Seacord	Orange	Washingtonville.
2..	Charles E. Mance	Orange	Middletown.
	Myron E. Eggleston	Orleans	Albion.
	Frederick G. Whitney	Oswego	Pulaski.
	Charles Smith	Otsego	Oneonta.
	John R. Yale	Putnam	Brewster.
1..	Thomas H. Todd	Queens	Long Island City.
2..	William Klein	Queens	College Point.
3..	Conrad Garbe	Queens	Woodhaven.
4..	William A. De Groot	Queens	Richmond Hill.
1..	Frederick C. Filley	Rensselaer	Troy.
2..	Bradford R. Lansing	Rensselaer	Rensselaer.
	William Allaire Shortt	Richmond	Tompkinsville.
	Frank De Noyelles	Rockland	Haverstraw.
1..	Fred J. Gray	St. Lawrence	Ogdensburg.
2..	Edwin A. Merritt, Jr	St. Lawrence	Potsdam.
	George H. Whitney	Saratoga	Mechanicville.
	Miles R. Frisbie	Schenectady	Schenectady.

MEMBERS OF ASSEMBLY—(Concluded).

District.	NAME.	County.	Address.
	George M. Palmer	Schoharie	Cobleskill.
	Charles A. Cole	Schuyler	Watkins.
	William B. Harper	Seneca	Seneca Falls.
1..	William H. Chamberlain	Steuben	Kanona.
2..	Charles K. Marlatt	Steuben	Troupsburg.
1..	John M. Lupton	Suffolk	Mattituck.
2..	Orlando Hubbs	Suffolk	Central Islip.
	George W. Murphy	Sullivan	Liberty.
	Frank L. Howard	Tioga	Waverly.
	William R. Gundermann	Tompkins	Ithaca.
1..	Joseph M. Fowler	Ulster	Kingston.
2..	William E. E. Little	Ulster	Bloomington.
	William R. Waddell	Warren	North Creek.
	James S. Parker	Washington	Salem.
	Edson W. Hamn	Wayne	Lyons.
1..	Harry W. Haines	Westchester	Yonkers.
2..	Marmaduke B. Wright	Westchester	Mount Vernon.
3..	Isaac H. Smith	Westchester	Peekskill.
4..	J. Mayhew Wainwright	Westchester	Rye.
	Robert M. McFarlane	Wyoming	Eagle.
	Leonidas D. West	Yates	Dundee.

LAWS OF THE STATE OF NEW YORK.

VOLUME II.

PASSED AT THE ONE HUNDRED AND THIRTY-FIRST SESSION OF THE LEGISLATURE, BEGUN ON THE FIRST DAY OF JANUARY, 1908, AT THE CITY OF ALBANY, AND INCLUDING EXTRAORDINARY SESSION, BEGUN MAY ELEVENTH, 1908, AND ENDING JUNE ELEVENTH, 1908.

Chap. 330.

AN ACT in relation to highways and bridges, constituting a consolidation of the highway laws, and providing for a state department of highways and for the construction and maintenance of state and county highways.

Became a law, May 19, 1908, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

THE HIGHWAY LAW.

Article I. Short title and definitions (§§ 1–3).
II. Department of highways (§§ 10–22).
III. District or county superintendents (§§ 30–33).
IV. Town superintendents; general powers and duties (§§ 40–70).
V. Highway moneys; state aid (§§ 90–111).
VI. State and county highways (§§ 120–157).
VII. Maintenance of state and county highways (§§ 170–179).
VIII. Laying out, altering and discontinuing highways; private roads (§§ 190–240).
IX. Bridges (§§ 250–262).
X. Ferries (§§ 270–274).
XI. Miscellaneous provisions (§§ 280–303).
XII. Saving clauses; laws repealed; when to take effect (§§ 310–318).

ARTICLE I.

Short Title and Definitions.

Section 1. Short title.
2. Definitions.
3. Classification of highways.

Section 1. **Short title.**— This chapter shall be known as the "Highway Law."

§ 2. **Definitions.**—1. The term "department," when used in this chapter, shall mean the department of highways as constituted herein.

2. The term "commission," when so used, shall mean the state commission of highways.

3. The term "district superintendent" or "county superintendent," when so used, shall mean the district superintendent of highways or county superintendent of highways respectively.

4. The term "town superintendent," when so used, shall mean the town superintendent of highways.

5. A highway within the provisions of this chapter shall be deemed to include necessary culverts, sluices, drains, ditches, waterways, embankments, retaining walls and all bridges having a span of five feet or less.

§ 3. **Classification of highways.**— Highways, the construction, improvement or maintenance of which is provided for in this chapter, are hereby divided into three classes:

1. State highways are those constructed or improved under this chapter at the sole expense of the state, including those highways specified and described in section one hundred and twenty of this chapter.

2. County highways are those heretofore or hereafter constructed or improved at the joint expense of state, county and town, as provided by law, except those highways specified and described in section one hundred and twenty of this chapter.

3. Town highways are those constructed, improved or maintained by the town with the aid of the state, under the provisions of this chapter, including all highways in towns, outside of incorporated villages constituting separate road districts, which do not belong to either of the two preceding classes.

ARTICLE II.

DEPARTMENT OF HIGHWAYS.

Section 10. Department of highways established.
11. State commission of highways; deputies, secretary and other clerks, officers and employees.
12. Oath of office; undertakings.
13. Principal office; official seal; stationery.
14. Salaries and expenses.
15. General powers and duties of the commission.
16. Division of state; division engineers.

Section 17. Duties of division engineers.
18. Blank forms and town accounts.
19. Examination of accounts and records.
20. Condemnation of bridges.
21. Estimate of cost of maintenance of state and county highways.
22. Rules and regulations for state and county highways.

§ 10. **Department of highways established.**— There is hereby established a department, to be known as a department of highways, which shall be constituted as provided in this chapter, and shall have the powers and perform the duties hereinafter prescribed.

§ 11. **State commission of highways; deputies, secretary, and other clerks, officers and employees.**— On or before the tenth day of January, nineteen hundred and nine, the governor shall appoint three commissioners of highways, by and with the advice and consent of the senate, who shall constitute the state commission of highways, and shall devote all of their time to the duties of their office. Of the commissioners first appointed one shall be designated by the governor as chairman during the term of office of said commissioner. One of them shall be a practical civil engineer who shall have had actual experience in the construction of highways and bridges. The commissioners first appointed hereunder shall hold office for terms of two, four and six years commencing on the first day of January, nineteen hundred and nine, to be designated by the governor when making the appointment. One of such commissioners shall belong to the party casting at the last preceding state election the next to the highest number of votes for governor, and whenever appointments are made to fill vacancies caused by the expiration of term or otherwise they shall be made so that at least one of such commissioners shall belong to such party. Upon the expiration of each of such terms the term of office of each commissioner thereafter appointed shall be six years from the first day of January succeeding the expiration of the term of office of his predecessor. If a vacancy shall occur otherwise than by expiration of term it shall be filled by appointment for the unexpired term. The commis-

sion shall appoint two deputies, each of whom shall have had practical experience in the actual building, construction and maintenance of highways and be familiar with the operation and effect of state statutes relating to highways and bridges. One of such deputies shall be known as the first deputy and his duties shall relate to the maintenance of state and county highways; the other shall be known as the second deputy, and his duties shall relate to the improvement, repair and maintenance of town highways and bridges. Each of such deputies shall have such other and further duties as may be imposed upon him by the commission. The commission shall appoint a secretary who shall have the duties prescribed by the commission. The commission shall appoint such resident engineers, clerks, officers and employees as may be required to carry out the provisions of this chapter, subject to the civil service laws and the provisions of this chapter, within the amount appropriated therefor, unless the appointment of such clerks, officers or employees is otherwise provided for herein. District superintendents, appointed as provided in this chapter, shall be appointed from lists prepared from examinations which shall test their qualifications for the actual construction and maintenance of highways and their executive capacity, rather than their scientific attainments. Clerks, other than those employed in the principal office of the commission, inspectors and other employees in the department whose duties pertain to the maintenance of highways, shall likewise be selected from lists prepared from examinations testing their general knowledge of the highway law and of the practical construction of highways. Inspectors of construction, other than engineers and levelers, shall be selected from lists similarly prepared, except that they shall be residents of the county within which the highway constructed or improved is located. To the end that the employees of the department of highways engaged in the work of constructing, improving or maintaining highways under the provisions of this chapter may be practical highway builders, the highway commission is authorized to indicate to the civil service commission the relative value which should be given to experience and scientific attainments.

§ 12. **Oath of office; undertaking.**— Each of such commissioners shall, before entering upon the duties of his office, take

and subscribe the constitutional oath of office and execute an undertaking in the sum of twenty-five thousand dollars, to be approved by and filed with the comptroller and renewed as often as the governor may require. Such undertaking shall be to the effect that each such commissioner will faithfully discharge the duties of his office and promptly account for and pay over all moneys or property received by him as such commissioner in accordance with law, or in default thereof that the parties executing such undertaking will pay all damages, costs and expenses resulting from such default. Each of the deputies and the secretary shall execute an undertaking in the sum of five thousand dollars to be approved by the commission and filed in its office.

§ 13. **Principal office; official seal; stationery.**— The principal office of the department shall be in the city of Albany in rooms provided by the trustees of public buildings. The department shall have an official seal, to be prepared by the secretary of state, as provided by law. The offices of the department shall be supplied with necessary postage, stationery and office furniture and appliances, to be paid for out of moneys appropriated therefor, and it shall have prepared for it by the state, such books and blanks as are required for carrying on the business of the department.

§ 14. **Salaries and expenses.**— The chairman of the commission shall receive an annual salary of six thousand dollars; each of the other commissioners shall receive an annual salary of five thousand dollars. The first and second deputy and secretary shall each receive an annual salary of three thousand five hundred dollars. The clerks, officers and other employees of the department shall receive the compensation fixed by the commission except as otherwise defined and established in this chapter and by the annual appropriation and supply bills. In the discharge of their official duties such commissioners, deputies, secretary, and the clerks, officers and other employees of the department shall have reimbursed to them their necessary traveling expenses and disbursements. Such salaries and expenses shall be paid by the state treasurer upon the warrant of the comptroller, out of moneys appropriated therefor in the same manner as the salaries and expenses of other officers, clerks and employees are paid.

§ 15. **General powers and duties of the commission.**— The commission shall

1. Have general supervision of all highways and bridges which are constructed, improved or maintained in whole or in part by the aid of state moneys.

2. Prescribe rules and regulations not inconsistent with law, fixing the duties of division engineers, district, county and town superintendents in respect to all highways and bridges composing the state and county systems and determining the method of the construction, improvement or maintenance of such highways and bridges. Such rules and regulations shall, before taking effect, be printed and transmitted to the highway officers affected thereby.

3. Compel compliance with laws, rules and regulations relating to such highways and bridges by highway officers and see that the same are carried into full force and effect.

4. Aid district, county and town superintendents in establishing grades, preparing suitable systems of drainage and advise with them as to the construction, improvement and maintenance of highways and bridges.

5. Cause plans, specifications and estimates to be prepared for the repair and improvement of highways and the construction and repair of bridges, when requested so to do by a district, county or town superintendent.

6. Investigate and determine upon the various methods of road construction adapted to different sections of the state, and as to the best methods of construction and maintenance of highways and bridges.

7. Make an annual report to the legislature on or before February fifteenth, stating the condition of the highways and bridges, the progress of the improvement and maintenance of state, county and town highways, the amount of moneys received and expended during the year, upon highways and bridges and in the administration of its office, and also containing such matters as in their judgment should be brought to the attention of the legislature, together with recommendations as to such measures in relation to highways as in their judgment the public interests require.

8. Compile statistics relating to the public highways throughout the state, and collect such information in regard thereto as they shall deem expedient.

9. Cause public meetings to be held at least once each year, in each district or county, for the purpose of furnishing such general information and instructions as may be necessary, regarding the construction, improvement or maintenance of the highways and bridges and the application of the highway law, and the rules and regulations of the department, and also for the purpose of hearing complaints. They shall notify the district or county superintendent of their intention to hold such meeting or meetings, specifying the date and the place thereof.

10. Aid at all times in promoting highway improvement throughout the state, and perform such other duties and have such other powers in respect to highways and bridges as may be imposed or conferred on them by law.

11. Approve and determine the final plans, specifications and estimates for state and county highways upon the receipt of the report and recommendations of the county or district superintendent, as provided herein, and transmit the same in the case of a county highway to the board of supervisors. After the approval of such plans, specifications and estimate by the board of supervisors and the return thereof to the commission, in the case of a county highway and after their final determination in respect thereto in the case of a state highway, the commission shall cause a contract to be let for the construction or improvement of such state or county highway after due advertisement.

12. Prepare tables showing the total number of miles of highways in the state, by town and county, and file a copy of the same in the office of the comptroller.

§ 16. **Division of state; division engineers.**— The commission shall divide the state into not more than six divisions and shall appoint and assign to each division a division engineer. In making such division no county shall be divided. Each person so appointed as a division engineer shall be a practical civil engineer having had actual experience in the construction and maintenances of highways and bridges. The salary of such engineers shall be three thousand dollars per annum. An office may be maintained by such division engineers at a convenient place

within each division as authorized by the commission. The salary and expenses of such engineers shall be paid out of moneys appropriated therefor upon the requisition of the commission. Each division engineer shall, before entering upon the duties of his office, take and subscribe the constitutional oath of office and execute an official undertaking in the sum of ten thousand dollars to be approved by the commission.

§ 17. **Duties of division engineers.**— Each division engineer shall devote his entire time to the performance of his duties. He shall, under the direction and control of the commission:

1. Make or cause to be made all surveys, maps, plans, specifications and estimates necessary or required for the improvement, construction and maintenance of state and county highways within the division for which he is appointed.

2. Examine, revise and approve all plans, specifications and estimates and proposals for the improvement, construction and maintenance of highways and bridges within his division, which may be submitted by the commission, pursuant to the provisions of this chapter, or the rules and regulations of the commission.

3. Examine and inspect, or cause to be examined and inspected, the work performed on any highways, and report to the commission as to whether the work has been done in accordance with the plans and specifications and contracts made therefor.

4. Approve and certify to the monthly estimates or allowances for work being performed under any contract let for the construction, improvement or maintenance of state and county highways.

5. Inspect, or cause to be inspected, all state and county highways, and report from time to time in respect thereto, when required by the commission.

6. Consult with district, county and town superintendents and other highway officers in respect to the proper methods of constructing, improving and maintaining highways and bridges.

7. Perform such other duties as may be prescribed by the commission.

§ 18. **Blank forms and town accounts.**— The commission shall prescribe and furnish blank forms of orders, reports and accounts and blank books, whenever in their judgment they are required for the convenience of their office and of highway officers.

§ 19. **Examination of accounts and records.**— The commission may, at such times as may be deemed expedient, cause an exam-

ination of all accounts and records kept as required by this chapter, and it shall be the duty of all county and town officers to produce all such records and accounts for examination and inspection, at any time on demand of a representative of the commission.

§ 20. **Condemnation of bridges.**— The commission shall cause an inspection to be made of any bridge which is reported to be unsafe for public use and travel by the district or county superintendent, the town superintendent, or five residents of the town. If such bridge is found to be unsafe for public use and travel the commission shall condemn such bridge, and notify the district or county superintendent, the town superintendent and the supervisor of the town, of that fact. The district or county superintendent shall either prepare or approve plans, specifications and estimates for the construction or repair of such bridge without delay. The town shall provide for the construction or reconstruction of such bridge, as provided for by section ninety-three of this chapter.

§ 21. **Estimate of cost of maintenance of state and county highways.**— The commission shall annually cause to be inspected all state and county highways, either by the division engineer, or the district or county superintendent of the district or county in which such highways are situated and shall require a complete report of such inspection which shall show in detail the condition of the highway inspected, the necessary work to be performed in the repair and maintenance of such highways, and the estimated cost thereof. The commission shall revise said estimates and annually report to the legislature its estimated cost of such repair and maintenance for the ensuing year, as so revised, in detail by town and county.

§ 22. **Rules and regulations for state and county highways.**— The commission is hereby empowered to make rules and regulations from time to time for the protection of any state or county highway or section thereof. They may prescribe the width of tires to be used on such highways and they may prohibit the use of chains or armored tires by motor vehicles upon such highways, and any disobedience thereof shall be punishable by a fine of not less than ten dollars and not exceeding one hundred dollars, to be prosecuted for by the town, county, or district superintendent and paid to the county treasurer to the credit of the fund for the maintenance of such highways in the town where such fine is collected.

ARTICLE III.

DISTRICT OR COUNTY SUPERINTENDENTS.

Section 30. Appointment of county superintendents.
31. District superintendents; appointment and salaries.
32. Removal of county superintendents.
33. General powers and duties of district or county superintendents.

§ 30. **Appointment of county — superintendent.** The board of supervisors of any county may appoint a county superintendent, determine the amount of the bond which he shall give, fix his salary, which shall be a county charge, and may remove such county superintendent for malfeasance or misfeasance in office, upon written charges, after an opportunity to be heard, not less than five days after the service upon such superintendent of a copy of such charges. The term of office of each superintendent shall be four years unless sooner removed by the board of supervisors as above provided, or by the commission as hereinafter provided.

§ 31. **District superintendents: appointment and salaries.** — If the board of supervisors of any county shall fail to appoint a county superintendent, the commission shall place such county in a district with such other counties as they deem best and appoint a district superintendent therefor. A county may be divided, but no district shall contain more than five thousand miles of public highways. Such district superintendents may be removed by the commission at its pleasure. The commission shall fix the salaries of such superintendents. Such salaries, together with expenses, shall be paid monthly in the first instance by the state treasurer upon the warrant of the comptroller and the amount thereof shall be annually apportioned by the commission among the counties contained in the district, in proportion to the number of miles of public highways of such county and in such district. The comptroller shall certify the amount so apportioned to the board of supervisors of each of such counties, and such board shall annually levy and cause to be collected as a county charge the proportionate part of such salary, and the treasurer of each such county shall pay the sum so raised into the state treasury.

§ 32. **Removal of county superintendent.**— The commission may remove a county superintendent for inefficiency, neglect of duty or misconduct in office, upon written charges after an opportunity of being publicly heard in his defense. A copy of such charges shall be personally served upon such superintendent and he shall be given not less than five days' notice of the time and place of the hearing. If upon such hearing it appears that the charges are sustained, the commission shall remove such superintendent and forthwith serve notice thereof by mail upon the superintendent and upon the chairman and clerk of the board of supervisors of the county for which he was appointed. Such notice shall state specifically the grounds for such removal. The record of the proceedings upon such hearing shall be filed in the office of the commission. The commission shall appoint a district superintendent for such county or cause it to be added to some other district, and it shall thereupon be made subject to the jurisdiction of the district superintendent thereof until the board of supervisors shall appoint a new county superintendent to fill the vacancy caused by such removal.

§ 33. **General powers and duties of district or county superintendents.**—The district or county superintendent appointed as provided in this article shall, subject to the rules and regulations of the commission:

1. Have the general charge of all highways and bridges within his district or county and see that the same are improved, repaired and maintained, as provided by law, and have the general supervision of the work of constructing, improving and repairing bridges and town highways in his district or county.

2. Visit and inspect the highways and bridges in each town of his district or county, at least once in each year and whenever directed by the commission, and advise and direct the town superintendent how best to repair, maintain and improve such highways and bridges.

3. Examine the various formations and deposits of gravel and stone in his district or county, for the purpose of ascertaining the materials which are best available and suitable for the improvement of highways therein, and when requested by the commission submit samples of such formations and deposits and make a written report in respect thereto.

4. Establish, or cause to be established, such grades, and recommend such means of drainage, repairs and improvements, as seem

to him necessary whenever requested by the town superintendent or town board.

5. Approve plans and specifications and estimates for the erection and repair of bridges and the construction and maintenance of town highways.

6. Report to the commission annually, on or before November fifteenth in each year, in relation to the highways and bridges in his district or county, containing such matter and in such form as may be prescribed by the commission, and file a duplicate thereof with the clerk of the board of supervisors. Additional reports shall be made from time to time when required by the commission in respect to such matters as may be specified by them.

7. Whenever a public meeting for a county or district shall have been called by the commission he shall cause due notice to be mailed to each town superintendent and supervisor of the towns under his jurisdiction and give such notice by advertisement as shall be directed by the commission.

8. Inspect or cause to be inspected, if so directed by the board of supervisors, each county highway during its construction or improvement, and certify to the board of supervisors the progress of the work, and report to the commission any irregularities of the contractor or any failure on his part to comply with the terms of the contract.

9. Perform such other duties as may be prescribed by law, or the rules and regulations of the commission.

ARTICLE IV.

TOWN SUPERINTENDENT; GENERAL POWERS AND DUTIES.

Section 40. Election of town superintendent of highways.
41. Submission of proposition for appointment of town superintendent.
42. Term of office of town superintendent.
43. Vacancies; office of highway commissioner abolished.
44. Deputy town superintendent.
45. Compensation of town superintendent and deputy.
46. Removal of town superintendent.
47. General powers and duties of town superintendent.
48. Contracts for the construction of town highways.
49. Machinery, tools and implements.
50. Town superintendent may hire machinery.

Section 51. Purchase of gravel and stone.
52. Obstructions and their removal.
53. Removal of obstructions from ditches, culverts and waterways.
54. Removal of noxious weeds and brush within the highways, and of obstructions caused by snow.
55. Assessment of costs against owners and occupants.
56. Wire fences to prevent snow blockades.
57. Entry upon lands by town superintendent.
58. Damages to owners of lands.
59. Damages for change of grade.
60. Drainage, sewer and water pipes, cattle passes or crossings in highways.
61. Trees and sidewalks.
62. Expenditures for sidewalks.
63. Allowances for shade trees.
64. Custody of shade trees.
65. Compensation for watering troughs.
66. Credit on private road.
67. Neglect or refusal to prosecute.
68. Erection of guide boards.
69. Measurement of highways and report.
70. Application for service of prisoners.
71. Construction and repair of approaches to private lands.
72. Unsafe toll bridges.
73. Actions for injuries to highways.
74. Liability of town for defective highways.
75. Action by town against superintendent.
76. Audit of damages without action.
77. Closing highways for repair or construction.

§ 40. **Election of town superintendent of highways.**—At the biennial town meeting held next after the taking effect of this chapter, there shall be elected in each town a town superintendent of highways. A successor to the town superintendent, so elected, shall be elected at each biennial town meeting held thereafter in such town, unless the town shall have adopted as provided in section 41 a resolution that thereafter the town superintendent shall be appointed by the town board.

§ 41. **Submission of proposition for appointment of town superintendent.**— Upon the written request of twenty-five taxpayers of any town, made and filed as provided in the town law, the electors thereof may, at a special or biennial town meeting, vote by ballot upon a proposition providing for the appointment of a town superintendent in such town. Such proposition shall be submitted in the manner provided by law for the submission of questions or propositions at a town meeting. If such proposition be adopted, the town board of the town shall, upon the expiration of the term of office of the elected town superintendent, appoint a town superintendent therefor, who shall take and hold office for the term hereinafter prescribed.

§ 42. **Term of office of town superintendent.**— The term of office of a town superintendent elected or appointed, as provided in this article, shall be two years. If such town superintendent be elected at a town meeting held at the time of a general election, his term shall begin on the Thursday succeeding his election, or as soon thereafter as he shall have been officially notified of his election and shall have duly qualified. If such town superintendent shall have been elected at a town meeting held at any other time, his term of office shall begin on the first day of November succeeding his election. If such town superintendent shall have been appointed pursuant to a proposition adopted, as provided in the preceding section, his term shall likewise begin on the first day of November, and the town board shall meet prior to that day, for the appointment of such town superintendent.

§ 43. **Vacancies; office of highway commissioner abolished.**— Vacancies in the office of town superintendent shall be filled for the balance of the unexpired term. The office of highway commissioner in each town is hereby abolished, to take effect on and after November first, nineteen hundred and nine. Where the office of highway commissioner shall become vacant by expiration of term or otherwise, after the taking effect of this chapter, and prior to the said first day of November, nineteen hundred and nine, such vacancies shall be filled for a term to expire on such date. Highway commissioners in office when this chapter or any section hereof takes effect shall exercise the powers and perform the duties hereby conferred and imposed upon town superintendents until the said first day of November, nineteen hundred and

nine, and until their successors shall have duly qualified, whereupon such powers and duties shall cease and determine.

§ 44. **Deputy town superintendent.**— The town board of a town may, in its discretion, upon the written recommendation of the town superintendent, appoint a deputy town superintendent, to be nominated by such town superintendent, to assist him in the performance of his duties. Such deputy superintendent shall act as such during the pleasure of the town superintendent.

§ 45. **Compensation of town superintendent and deputy.**— The town board shall fix the compensation of such superintendent and his deputy, if one be appointed, which shall not be less than two nor more than five dollars per day. Such town superintendent and his deputy, if any, shall be paid the actual and necessary expenses incurred by them in the performance of their duties. Such compensation may be paid by the supervisor monthly, in advance of audit, from moneys levied and collected for such purpose, on accounts duly verified in the same manner as town accounts are required by law to be verified. Such accounts for compensation, together with accounts for expenses incurred by such town superintendent and his deputy, if any, verified as above provided, shall be subject to audit by the town board at its meeting held annually for the audit of accounts of town officers, and the balance due, as finally audited by the town board, shall be paid by the supervisor to such town superintendent, or deputy, if any, from funds available therefor.

§ 46. **Removal of town superintendent.**— A town superintendent may be removed by the town board upon written charges preferred by the commission, or by the district or county superintendent, for malfeasance or misfeasance in office. Such charges shall be presented in duplicate to the town clerk, one of which shall be filed in his office, and the other shall be served by him personally upon the town superintendent, together with a notice directing him to appear before the town board at a time and place stated therein. Such service shall be made at least five days prior to the time specified in such notice. The town board shall convene for the purpose of considering such charges within ten days after the filing thereof with the town clerk. The town board shall hear evidence in support and in defense of such charges and after such hearing shall enter an order in the office of the town clerk either sustaining or dismissing such charges. The entry of an order sustaining the charges shall operate as a removal and the town

board shall appoint another person to fill the vacancy caused thereby. The person so appointed shall hold office for the unexpired term or until the entry of a final order of a court of competent jurisdiction determining that the original town superintendent was wrongfully and illegally removed and directing his reinstatement. If the charges are dismissed, the town board shall notify the commission and the district or county superintendent of such fact. The town board shall also notify the commission and the district or county superintendent of the name of the person appointed to fill the vacancy caused by the removal of such town superintendent. An appeal may be taken by the commission or district or county superintendent, or by the town superintendent, from the order of the town board, to the county court by the filing of a notice of such appeal in the office of the town clerk within thirty days after the entry of such order. A copy of such notice of appeal shall be served personally or by mail upon the adverse party. Upon such appeal the county court shall consider the charges presented to the town board, and may hear evidence in support and in defense thereof. After such hearing the court shall make an order either affirming or reversing the order of the town board. A copy of such order shall be entered in the office of the town clerk. If the order reverse an order dismissing the charges, it shall direct the town board to remove the town superintendent and appoint a person to fill the vacancy caused thereby, within the time specified therein; if it reverse an order sustaining such charges, it shall direct the reinstatement of the town superintendent removed, to take effect upon the filing of the copy in said town clerk's office.

§ 47. **General powers and duties of town superintendent.**— The town superintendent shall, subject to the rules and regulations of the commission, made and adopted as provided in this chapter:

1. Have the care and superintendence of the highways and bridges in the town except as otherwise specially provided in relation to incorporated villages, cities and other localities.

2. Cause such highways and bridges to be kept in repair, and free from obstructions caused by snow and give the necessary directions therefor, and inspect the highways and bridges within the town, during the months of April and October of each year, or at such other time as the district or county superintendent may prescribe.

3. Divide the town into as many sections as may be necessary for the proper maintenance and repair of the highways therein, and the opening of highways obstructed by snow.

4. Employ such persons with teams and implements, as may be necessary for the proper maintenance and repair of highways and bridges, and the removal of obstructions caused by snow, subject to the approval of the town board, as hereinafter provided, and provide for the organization and supervision of the persons so employed. He shall file a list of the names of the persons so employed, with the compensation paid to each, and the capacity in which they were employed in the office of the town clerk.

5. Construct and keep in repair sluices and culverts and cause the waterways, bridges and culverts to be kept open.

6. Cause loose stones lying in the beaten track of every highway within his town to be removed at least three times each year between the first day of April and the first day of December. Stones so removed shall be conveyed to some place from which they shall not work back, or be brought back into the track by road machines or other implements used in repairing such highways.

7. Cause noxious weeds growing within the bounds of the highway to be cut and removed, at least twice each year, once between the first and fifteenth day of July, and once between the first and fifteenth day of September. He shall also cause all briers and brush within the bounds of the highway to be cut and removed once between the first and fifteenth day of September in each year, as provided by section fifty-four of this chapter, unless otherwise directed by the commission.

8. Cause such highways as shall have been laid out, but not sufficiently described, and such as shall have been used for twenty years, but not recorded, to be ascertained, described and entered on record in the town clerk's office.

9. Inspect all highways which are to be constructed or improved as state or county highways, when directed by the district or county superintendent, for the purpose of securing preliminary information to be used in preparing the plans and specifications for such highways, and mark or in some substantial manner designate the portions of such highways which may need special care and attention. He shall report to the district or county superintendent the condition of such highways and submit therewith such recommendations in respect thereto as may seem ex-

pedient. The district or county superintendent may require additional reports in respect to such highways whenever it seems to him to be necessary.

10. Attend public meetings called by the commission, held within the county, after receiving notice thereof from the district or county superintendent, and his expenses necessarily incurred thereby shall be a town charge.

11. Cause the monuments erected, or to be erected, as the boundaries of highways, to be kept up and renewed so that the extent of such highway boundaries may be publicly known, and erect and establish such new monuments as may be required by the district or county superintendent.

12. Collect all penalties prescribed by this chapter.

13. Report annually on such date as may be prescribed by the commission, prior to November fifteenth, to the district or county superintendent, in relation to the highways and bridges in his town, containing the matter and in the form to be prescribed by the commission.

14. Perform such other duties and have such other powers as may be imposed or conferred by law, or the rules and regulations of the commission, including the powers and duties heretofore exercised or performed by highway commissioners.

§ 48. **Contracts for the construction of town highways.**— The town board of any town may provide that the construction of new highways, or the permanent improvement or reconstruction of existing highways, the cost of which will exceed five hundred dollars, shall be done under contracts. All such contracts shall be awarded by the town superintendent, in accordance with estimates, plans and specifications to be furnished by the district or county superintendent, or by the commission, as provided in this chapter, to the lowest responsible bidders, after advertisement once a week, for three consecutive weeks, in a newspaper published in the town where the work is to be performed, or if no newspaper is published therein, in a newspaper published at some other place in the county, having the largest circulation in said town. All bids for such work shall be opened in public and shall be filed in the office of the town clerk. No such contract shall be awarded, unless it be approved by the district or county superintendent, as to its form and sufficiency. The person to whom such contract is awarded shall execute a bond to the town, in a sum equal to the amount of the contract, with two or more sureties

to be approved by the town board, conditioned for the faithful compliance with the terms of the contract, and the plans and specifications and for a payment of all damages which may accrue to the town, because of a violation thereof. When such work is completed pursuant to the terms of such contract, and the plans and specifications therefor, and accepted by the district or county superintendent and town board, as being in accordance therewith, the cost of the work under the contract shall be paid out of moneys available therefor, in the same manner as other highway expenses. Payments made under such contract shall be upon certificates issued to the contractor by the district or county superintendent, to the effect that the work has been done under and in accordance with the terms of such contract, and the plans and specifications. All work done under any such contract shall be under the supervision of the district or county superintendent, or some person designated by him. The town superintendent shall file all contracts, awarded under this section or as provided in this chapter, for the construction, improvement or repair of town highways and bridges, with the town clerk of the town within ten days after their execution.

§ 49. **Machinery, tools and implements.**— The town superintendent may, with the approval of the town board, purchase for the use of the town, stone crushers, steam rollers, traction engines, road machines for grading and scraping, tools and other implements, subject to the limitations prescribed in section ninety-four, which shall be paid for from moneys levied and collected or from the proceeds of bonds issued and sold for such purposes as provided in this chapter. No contract for the purchase of stone crushers, steam rollers or traction engines shall be valid, unless the district or county superintendent shall have approved thereof and endorsed his approval upon such contract. All road machines, stone crushers, steam rollers, tools and other implements owned either by the town or the highway districts therein, when this chapter takes effect, shall be used by the town superintendent in such manner and at such places in such town as he shall deem best. They shall be under the control of the superintendent and be cared for by him at the expense of the town. The town superintendent shall annually make a written inventory of all such machinery, tools and implements, indicating each article and stating the value thereof, and the estimated cost of all necessary repairs thereto, and deliver the same to the super-

visor of the town on or before October thirty-first in each year. He shall at the same time file with the town clerk his written recommendations as to what machinery, tools and implements should be purchased for the use of the town, and the probable cost thereof. The town superintendent shall provide a suitable place for housing and storing all machinery, tools and implements owned by the town and cause the same to be stored therein, when not in use. Where there is an incorporated village constituting a separate road district, wholly or partly in a town which has purchased a stone crusher, steam roller or traction engine, the town board of such town may permit the use thereof by such village upon such terms as may be agreed upon.

§ 50. **Town superintendent may hire machinery.**— The town superintendent may, with the approval of the district or county superintendent, lease or hire stone crushers, steam rollers and traction engines at a rate to be approved by the town board, which shall not exceed ten dollars for a stone crusher and steam roller, and eight dollars for a traction engine, for each day such stone crusher, steam roller or traction engine is actually used upon the highways. The expense thereof shall be paid by the supervisor, upon the written order of the town superintendent, out of moneys received by him, as provided in this chapter, for the repair and improvement of highways.

§ 51. **Purchase of gravel and stone.**— The town superintendent may, with the approval of the town board, purchase of the owner of any gravel bed or pit, or stone quarry within the town, gravel or stone for the purpose of grading, repairing or otherwise improving the highways of the town, at a price per cubic yard to be approved by the town board. If such town superintendent cannot agree with any such owner for the purchase of such gravel or stone, he may, with the approval of the town board, acquire by condemnation the right to take and use such gravel or stone, and to remove the same from such bed, pit or quarry, for the purpose of grading, repairing or otherwise improving such highways, together with the right of way to and from such bed, pit or quarry, for the purpose of such removal. No such gravel or stone shall be so taken by condemnation within five hundred feet of any house or barn, or from any lawn, orchard or vineyard. The purchase price of such stone or gravel and the damages awarded in such condemnation proceedings, together with the costs and expenses thereof, shall be a town charge and paid from moneys

levied and collected therefor, as provided by law. If the town shall abandon for the period of three years any right acquired under this section to take and use the gravel or stone from any such bed, pit or quarry, for a period of three years, or if the superintendent shall cease to use the same for the purposes for which it was acquired, the right thereto shall cease, and the ownership thereof shall revert to and become vested in the owner of such bed, pit or quarry, or his heirs or assigns.

§ 52. **Obstructions and their removal.**— Obstructions, within the meaning of this section, shall include trees which have been cut or have fallen either on adjacent lands or within the bounds of the highway, in such a manner as to interfere with public travel therein; limbs of trees which have fallen within the highway, or branches of trees overhanging the highway so as to interfere with public travel therein; lumber, wood or logs piled within the bounds of the public highway; machines, vehicles and implements abandoned or habitually placed within the bounds of the highway; fences, buildings or other structures erected within the bounds of the highway; earth, stone or other material placed in any ditch or waterway along the highway; telegraph, telephone, trolley and other poles, and the wires connected therewith, erected within the bounds of the highway in such a manner as to interfere with the use of the highway for public travel.

It shall be the duty of each owner or occupant of lands situate along the highway, to remove all obstructions within the bounds of the highway, which have been placed there, either by themselves or by their consent. It shall be the duty of all telephone, telegraph, electric railway and other electrical companies, to remove and reset telephone, telegraph, trolley and other poles and the wires connected therewith, when the same constitute obstructions to the use of the highway by the traveling public. If such obstructions are not removed, or such poles or wires are not moved and reset, within thirty days after the service of a notice, personally or by mail, upon such owner or occupant, or upon such company at its principal place of business, or an agent of such company within the town, requesting the same to be done, the town superintendent shall remove such obstructions, and move and reset such poles and wires. The expense thereby incurred shall be paid in the first instance out of moneys levied and collected and available therefor, and the amount thereof shall be charged against such

owner, occupant or company, and levied and collected, as provided in section fifty-five.

§ 53. **Removal of obstructions from ditches, culverts and waterways.**— The town superintendent shall cause all ditches, culverts and waterways on state and county highways to be kept free from obstructions at all times. He shall also cause snow and ice to be removed from the culverts and waterways of such highways and the expense thereof shall be paid from the moneys levied and collected for the repair and improvement of highways, as provided by this chapter.

§ 54. **Removal of noxious weeds and brush within the highways, and of obstructions caused by snow.**— It shall be the duty of the owner or occupant of lands situated along the highway to cut and remove the noxious weeds growing within the bounds of the highway, fronting such lands, at least twice in each year, once in the month of June, and once in the month of August. Unless otherwise directed by the commission, it shall be the duty of such owner or occupant to cut and remove all briers and brush, growing within the bounds of the highway, fronting such lands, once in the month of August in each year. It shall also be the duty of such owner or occupant to remove brush, shrubbery and other obstructions within the bounds of the highway, causing the drifting of snow upon said highway, before the first day of November in each year. If such owner or occupant fails to cut or remove such weeds or brush, or to remove such brush, shrubbery or other obstructions, causing the drifting of snow, as provided herein, the town superintendent of the town in which said lands are situated shall cause the same to be done, and the expense thereby incurred shall be paid in the first instance out of moneys levied and collected and available therefor, and the amount thereof shall be charged against such owner or occupant, and levied and collected, as provided in section fifty-five.

§ 55. **Assessment of cost against owners and occupants.**— The town superintendent shall assess the cost of,

1. Removing obstructions and moving and resetting poles and wires, pursuant to section fifty-two.

2. Cutting and removing noxious weeds, briers and brush and removing brush, shrubbery and other obstructions within the highways, causing the drifting of snow, pursuant to section fifty-four, against the owner, occupant or company neglecting to perform the duty imposed by the sections above referred to. Such town super-

intendent shall serve personally or by mail upon such owner, occupant or company, a written notice, stating that at a time and place specified therein, he will assess such cost against the owner, occupant or company neglecting to perform such duty. Such notice shall be served at least eight days previous to the time specified therein. If directed against a company, it may be served upon it at its prineipal place of business, or upon an agent of the company within the town. At the time and place so specified, he shall hear the parties interested, and shall thereupon complete the assessment, stating therein, the name of each owner, occupant or company, and the amount assessed against him or it, and shall return such assessment to the town clerk who shall present the same to the town board of his town, at its meeting held on the Thursday preceding the annual meeting of the board of supervisors. Such town board shall certify such assessment to the board of supervisors who shall cause the amount stated therein to be levied against such owner, occupant or company and any uncollected tax shall be a lien upon the land affected. The amount so levied shall be collected in the same manner as other taxes levied by such board, and shall be paid to the supervisor of the town, to be applied in reimbursing the fund from which such cost was defrayed.

§ 56. **Wire fences to prevent snow blockades.**— The town superintendent, with the consent of the town board, may purchase wire for fences to be erected for the prevention of snow blockades, and the said town superintendent is hereby authorized to contract with the owners of the lands lying along the highways of their respective towns, at such points as are liable to snow blockade, for the removal of the fences now standing along the boundaries of such highways and the replacing of such fences with wire fences. He may contract to deliver to such land owners fence wire to be used in the construction of such fences, without charge to said land owners, at the place of purchase, but he shall not agree to pay any part of the cost of the removal or construction called for by said contracts, or to make any payment to said land owners, as a compensation for the construction of fences or for posts. The amount to be expended for the purchase of such wire shall not exceed the sum of three hundred dollars in any one year, and such amount shall be included in the estimate for expenditures for removal of obstructions caused by snow, and other miscellaneous purposes, and paid from the money levied and collected

therefor. The fences to be built, under the provisions of this section, shall be of not less than four strands of wire, nor more than nine strands, in the discretion of the town superintendent, approved by the town board, and the construction of said fences and their distance apart, shall be such as said town superintendent shall prescribe. Whenever such fence or fences shall become so out of repair as to be dangerous to animals passing along the highway, it shall be the duty of the owner or owners of said fence or fences to immediately repair or replace the same. Whenever the town superintendent shall contract for the removal of any fence, under the provisions of this section, he shall file in the office of the town clerk a description of that portion of the highway to which said contract shall apply, and thereafter it shall not be lawful for any person to replace the fence so contracted to be removed, with any fence liable to cause the drifting of snow. In no case shall the town superintendent approve of or permit the use of barb wire for such fences.

§ 57. **Entry upon lands by town superintendent.**— The town superintendent may, when directed by the district or county superintendent, and when authorized by the town board, enter

1. Upon any lands adjacent to any of the highways in the town, for the purpose of opening an existing ditch or drain, or for digging a new ditch or drain for the free passage of water for the drainage of such highways.

2. Upon the lands of any person adjoining rivers, streams or creeks, to drive spiles, throw up embankments and perform such other labor as may be necessary to keep such rivers, streams or creeks within their proper channels, and to prevent their encroachment upon highways or abutments of bridges.

3. Upon the lands adjoining a highway which, during the spring freshets or at a time of highwater are subject to overflow from such rivers, streams or creeks, to remove or change the position of a fence or other obstruction preventing the free flow of water under or through a highway, bridge or culvert, whenever the same may be necessary for the protection of such highway or bridge.

4. Upon any lands adjacent to highways to remove any fence or other obstruction which causes snow to drift in and upon such highways, and erect snow fences or other devices upon such lands to prevent the drifting of snow in or upon such highways.

§ 58. **Damages to owners of lands.**—Where lands are entered upon under the provisions of the preceding section, the town superintendent shall agree with the owner of such lands, subject to the approval of the town board, as to the amount of damages, if any, sustained by such owner in consequence of such entry in performance of the work authorized by such section, and the amount of such damages shall be a town charge. If the town superintendent is unable to agree with such owner upon the amount of damages thus sustained the amount thereof shall be ascertained, determined and paid in the manner that damages are so ascertained, determined and paid, where new highways are laid out and opened and the town superintendent and land owners are unable to agree upon the amount thereof.

§ 59. **Damages for change of grade.** — In any town in which a town highway shall be repaired, graded and macadamized from curb to curb by the authorities of the town the owner or owners of the land adjacent to the said highway shall be entitled to recover from the town the damages resulting from any change of grade. A person claiming damages from such change of grade must present to the town board of such town a verified claim therefor within sixty days after such change of grade is effected. The board may agree with such owner upon the amount of damages to be allowed him. If no agreement be made within thirty days after the presentation of the claim, the person presenting it may apply to the supreme court for the appointment of three commissioners to determine the compensation to which he is entitled. Notice of the application must be served upon the supervisor of the town at least ten days before the hearing thereof. All proceedings subsequent to the appointment of commissioners shall be taken in accordance with the provisions of the condemnation law so far as applicable. Such town board, or such commissioners, shall, in determining the compensation, consider the fair value of the work done, or necessary to be done, in order to place the claimant's lands, or buildings, or both, in the same relation to the changed grade as they stood to the former grade, and make awards accordingly, except that said board or said commissioners may make an allowance for benefits derived by the claimant from such improvement. The amount agreed upon for such damages, or the award therefor together with the costs, if any, allowed to the claimant, shall be a charge against such

town and the supervisor shall pay the same, if there be sufficient funds in his hands available, and if not, the town board shall borrow money for the payment thereof, as provided in section ninety-seven, or issue certificates of indebtedness therefor, as provided in section ninety-six. Bonds of the town to raise the money necessary to make such payment, and such bonds or such certificates of indebtedness shall bear a rate of interest not exceeding five per centum per annum payable semi-annually. Such bonds shall be in the same form, and shall be issued and sold in the same manner as other town bonds.

§ 60. **Drainage, sewer and water pipes, cattle passes or other crossings in highways.**— The town superintendent may, with the consent of the town board, upon the written application of any resident of his town or a corporation, grant permission for an overhead or underground crossing or to lay and maintain drainage, sewer and water pipes under ground within the portion therein described of a town highway. If the highway is a state or county highway such permission shall be granted with the consent of the county or district superintendent instead of the town board. Permission shall not be granted for the laying and maintaining of such pipes under the travelled part of the highway, except across the same, for the purposes of sewerage and draining swamps or other lands, and supplying premises with water. Such permission shall be granted upon the condition that such pipes and hydrants or crossings shall be so laid, set or constructed as not to interrupt or interfere with public travel upon the highway, and upon the further condition that the applicant will replace the earth removed and leave the highway in all respects in as good condition as before the laying of said pipes, or construction of such crossings, and that such applicant will keep such pipes and hydrants or crossing in repair and save the town harmless from all damages which may accrue by reason of their location in the highway, and that upon notice by the town superintendent the applicant will make the repairs required for the protection or preservation of the highway. The permit of the town superintendent, with the consent of the town board or county or district superintendent, and the acceptance of the applicant, shall be executed in duplicate, one of which shall be filed in the office of the town clerk and the other in the office of the district or county superin-

tendent. In case the applicant shall fail to make any of the repairs required to be made under the permit, they may be made by the town superintendent at the expense of the applicant, and such expenses shall be a lien, prior to any other lien, upon the land benefited by the use of the highway for such pipes, hydrants or structures. The town superintendent may revoke such permit upon the applicant's failure to comply with any of the conditions contained therein.

§ 61. **Trees and sidewalks.**— The town superintendent may, by an order in writing, approved by a majority of the members of the town board, authorize the owners of property adjoining the highways, at their own expense, to locate and plant trees and locate and construct sidewalks along the highways, in conformity with the topography thereof, which order with a map or diagram, showing the location of the sidewalk and tree planting, certified by the town superintendent, shall be filed in the office of the town clerk, within ten days after the making of the order.

§ 62. **Expenditures for sidewalks.**— The town superintendent of any town may, with the consent of the town board, maintain and repair existing sidewalks in such town, and the expense thereof shall be a town charge. The town board of any such town may on the petition of not less than twenty-five taxpayers of the town, by resolution, direct the town superintendent to construct a sidewalk along a described portion of any highway of the town, in a manner and not exceeding an expense to be specified in the resolution, and the expense of constructing such sidewalk shall be a town charge, and shall be paid in the same manner as other town charges.

§ 63. **Allowance for shade trees.**— There shall be allowed by the town superintendent, with the consent of the town board, to each such owner or occupant, who shall set out or transplant by the side of the highway adjoining his premises, any forest shade trees, fruit trees, or nut bearing trees suitable for shade trees, in conformity with the preceding section, the sum of one dollar for each three living trees so set out or transplanted, to be paid by the supervisors to such owner or occupant, upon the order of the town superintendent out of moneys levied and collected for miscellaneous purposes. Such allowance shall only be made for trees so set out or transplanted during the preceding year, and living and well protected from animals at the time of the allow-

ance. Such trees shall be set out or transplanted not more than eight feet from the outside line of any highway three rods wide, and not more than one additional foot distant therefrom, for each additional rod in width of highway, and not less than seventy feet apart, on the same side of the highway, if elms, or fifty feet, if other trees. Trees transplanted by the side of the highway, in place of trees which have died, shall be allowed for in the same manner.

§ 64. **Custody of shade trees.**— The town superintendent shall have the full control of all shade trees in the public highways of the town, but not within the limits of an incorporated village, and shall prosecute complaints for malicious injury to, or unlawful acts concerning, public shade trees. Upon the recommendation of the town superintendent, the town board may, by resolution, appropriate a sum, not exceeding two hundred dollars, to be known as the "Shade Tree Fund." Such fund shall be placed in the hands of the supervisor as custodian, and shall be expended by him upon the written order of the town superintendent, for the setting out and preservation of shade trees along the highways in such town.

§ 65. **Compensation for watering troughs.**— The town superintendent may, with the consent of the town board, authorize the owner or occupant of lands to construct and maintain a watering trough beside the public highway, to be supplied with fresh water, the surface of which shall be three or more feet above the level of the ground and easily accessible for horses with vehicles, but when possible, all such watering troughs shall be constructed on the lower side of the highway. Such watering trough shall be maintained by such owner or occupant and kept supplied with fresh water. The town superintendent shall annually give a written order upon the supervisor for three dollars to be paid to such owner or occupant by the supervisor, for maintaining such watering trough, and keeping the same supplied with fresh water, out of moneys levied and collected for miscellaneous purposes.

§ 66. **Credit on private road.**—Any person living upon a private road may be credited on account of his highway taxes in any year an amount equal to the value of the work which the town superintendent may deem necessary to be done in such year upon such road. The town superintendent shall issue to him a statement containing the name of the person, the location of the

road, the amount of work so deemed necessary to be done, and the value thereof. Such statement shall be presented to the town board at its annual meeting for the audit of town accounts, and if approved by such board, and such work shall have been done, an order shall be issued directing the supervisor to pay the sum specified in such statement to the person therein named, or his assignee, out of moneys in the hands of the supervisor available for highway purposes. The amount so paid in any year shall not exceed the amount payable by the person named in such statement on account of moneys levied in such town for the repair and improvement of highways as provided in this chapter. This section shall not apply to private roads or rights of way over lands of the owner thereof used by him for his own convenience.

§ 67. **Neglect or refusal to prosecute.**— If the town superintendent shall neglect or refuse to prosecute for any penalty, knowing the same to have been incurred, he shall be liable to a penalty of ten dollars for every such neglect or refusal, which shall be recovered by action in the name of the town, by the supervisor, or by any taxpayer of the town who shall indemnify the town for the costs and expense of the action, in such manner as the supervisor may approve.

§ 68. **Erection of guide boards.**—The town superintendent may, with the consent of the town board, cause guide posts with proper inscriptions and devices to be erected at the intersections of such highways therein, as may be necessary, which shall be kept in repair by him at the expense of the town. Upon written application to him, of five resident taxpayers of any town or twenty resident taxpayers of the county in which such town is located, requesting the erection of one or more guide boards at the intersection of highways in such town, it shall be his duty to cause to be erected at the intersections mentioned in such application, such guide boards indicating the direction, distances and names of the towns, villages or cities to or through which such intersecting highways run. Such application shall designate the highway intersections at which such guide boards are requested to be erected, and may contain suggestions as to the inscriptions and devices to be placed upon such boards. The cost of the erection and maintenance of such boards shall be a town charge. If the town superintendent refuses or neglects for a period of sixty days after receiving such application to comply with the request contained therein, he shall, for such neglect or refusal, forfeit to the town,

the sum of twenty-five dollars, to be recovered by the supervisor in the name of the town, and the amount so recovered shall be set apart for the erection of such guide boards.

§ 69. **Measurement of highways and report.**—Within six months after the taking effect of this chapter, and as often as the commission shall direct, the town superintendent shall measure all highways of his town. Such measurements shall be made either by the use of a cyclometer or otherwise as the commission shall direct. He shall ascertain, and indicate in his report, the town highways which have been surfaced with gravel, those which have been surfaced with crushed stone and those which have been shaped and crowned. He shall report in triplicate, on forms to be prescribed and furnished by the commission, the total mileage of all highways within his town, specifying as above provided as to town highways, one of which shall be filed with the town clerk, one with the district or county superintendent, and one with the commission.

§ 70. **Application for service of prisoners.**—After satisfying himself that proper quarters can be secured, the town superintendent may, with the consent of the town board, request the supervisor of the town, under the provisions of section ninety-three of the county law, to procure the services of prisoners serving sentence in the county jail, for general work upon the public highways of the town.

§ 71. **Construction and repair of approaches to private lands.**—The owners or occupants of lands shall construct and keep in repair all approaches or driveways from the highway, under the direction of the district or county superintendent, and it shall be unlawful for such owner or occupant of lands to fill up any ditch or place any material of any kind or character in any ditch so as to in any manner obstruct or interfere with the purposes for which it was made. The town superintendent may, when directed by the town board, construct and keep in repair such approaches and the expense thereof shall be a town charge.

§ 72. **Unsafe toll bridge.**—Whenever complaint in writing, on oath, shall be made to the town superintendent, of any town in which shall be in whole or in part any toll bridge belonging to any person or corporation, representing that such toll bridge has from any cause become and is unsafe for the public use, such town superintendent shall forthwith make a careful and thorough examination of such toll bridge, and if upon the examination

thereof he shall be of the opinion that the same has from any cause become dangerous or unsafe for public use, he shall thereupon give immediate notice to the owners of such toll bridge, or to any agent of such owners, acting as such agent in respect to such bridge, that he has, on complaint made, carefully and thoroughly examined the bridge, and found it to be unsafe for public use. Such owners shall thereupon immediately commence repairing the same, and cause such repairs to be made within one week from the day of such notice given, or such reasonable time thereafter as may be necessary to thoroughly repair the bridge, so as to make it in all respects safe and convenient for public use. For neglect to take prompt and effective measures so to repair the bridge, its owners shall forfeit twenty-five dollars, and shall not demand or receive any toll for using the bridge until the same shall be fully repaired. The town superintendent shall cause such repairs to be made and the owners of the bridge shall be liable for the expense thereof, and for the services of the superintendent, and upon the neglect or refusal to pay the same upon presentation of an account therefor, the town superintendent may recover the same by action, in the name of the town.

§ 73. **Actions for injuries to highways.**—The town superintendent shall bring an action in the name of the town, against any person or corporation, to sustain the rights of the public, in and to any town highway in the town, and to enforce the performance of any duty enjoined upon any person or corporation in relation thereto, and to recover any damages sustained or suffered, or expenses incurred by such town, in consequence of any act or omission of any such person or corporation, in violation of any law or contract in relation to such highway.

§ 74. **Liability of towns for defective highways.**— Every town shall be liable for all damages to person or property sustained by reason of any defect in its highways or bridges, existing because of the neglect of any town superintendent of such town. No action shall be maintained against any town to recover such damages, unless a verified statement of the cause of action shall have been presented to the supervisor of the town within six months after the cause of action accrued. And no such action shall be commenced until fifteen days after the service of such statement.

§ 75. **Action by town against superintendent.**— If a judgment shall be recovered against a town for damages to person or property, sustained by reason of any defect in its highway or bridges,

existing because of the neglect of any town superintendent, such town superintendent shall be liable to the town for the amount of the judgment, and interest thereon, but such judgment shall not be evidence of the negligence of the superintendent in the action against him.

§ 76. **Audit of damages without action.**— The town board of any town may audit as a town charge, in the same manner as other town charges are audited, any one claim not exceeding five hundred dollars, for damages to person or property, heretofore or hereafter sustained by reason of defective highways or bridges in the town, if in their judgment it be for the interest of the town so to do; but no claim shall be so audited unless it shall have been presented to the supervisor of the town within six months after it accrued, nor if any action thereon shall be barred by the statute of limitations. The town board may also audit any unpaid judgment heretofore or hereafter recovered against a town superintendent for any such damages, if such town board shall be satisfied that he acted in good faith, and the defect causing such damage did not exist because of the negligence or misconduct of the superintendent against whom such judgment shall have been recovered.

§ 77. **Closing highways for repair or construction.**— If it shall appear necessary to a district or county superintendent to close a highway which is being constructed, improved or repaired under this chapter so as to permit a proper completion of such work, he shall execute a certificate and file the same in the office of the town clerk in which such highway is situated. Such certificate shall state the necessity for the closing of such highway and describe the portion thereof to be closed; not more than two miles of any highway shall be closed at any one time. At the time of filing such certificate such district or county superintendent shall notify the town superintendent to close the highway, who shall thereupon close the same to public travel by erecting suitable obstruction and posting conspicuous notices to the effect that the highway is closed. The town superintendent shall, if practicable, provide a new location for, and construct a temporary highway to be used by the traveling public in lieu of the closed highway and may erect temporary bridges when necessary, or cause other existing highways to be used, when so directed by the district or county superintendent. For the purpose of locating, constructing and erecting such temporary highway or bridge the town

superintendent may enter upon the lands adjoining or near to the closed highway and may, with the approval of the town board, agree with the owners of such land as to the damages, if any, caused thereby. If the town superintendent is unable to agree with such owner upon the amount of damages thus sustained the amount thereof shall be ascertained, determined and paid as provided in section fifty-eight. When such highway shall have been closed to the public as provided herein any person who disregards the obstruction and notice, and drives, rides or walks over the portion of the highway so closed, shall be guilty of a misdemeanor.

ARTICLE V.

HIGHWAY MONEYS; STATE AID.

Section
90. Estimate of expenditures for highways and bridges.
91. Duties of town board in respect to estimates; levy of taxes.
92. Additional tax.
93. Extraordinary repairs of highways and bridges.
94. Limitations of amounts to be raised.
95. Submission of propositions at town meetings.
96. Borrowing money in anticipation of taxes.
97. Towns may borrow money for bridge and highway purposes.
98. Issue and sale of town bonds.
99. Assessment of village property.
100. Statement by clerk of board of supervisors.
101. Amount of state aid.
102. Mileage and assessed valuation.
103. Payment and distribution of state money.
104. Custody of highway moneys; undertaking of supervisor.
105. Expenditures for repair and improvement of highways.
106. Expenditures for bridges and other highway purposes.
107. Reports of supervisor as to highway moneys.
108. Highway accounts; forms and blanks.
109. Duty of town clerk.
110. Compensation of supervisor and town clerk.
111. Additional expenditure for improvement, repair and maintenance of town highways.

§ 90. **Estimate of expenditures for highways and bridges.**— The town superintendent shall annually, on or before the thirty-first day of October, make a written statement in respect to the amount of money which should be raised by tax in the town for the ensuing year, beginning on said first day of November, for the purposes therein set forth, which shall be filed with the town clerk. Such statement shall specify:

1. The amount of money necessary to be levied and collected for the repair and improvement of highways, including sluices, culverts and bridges having a span of less than five feet. Such amount shall not be less than an amount which when added to the amount of money to be received from the state, under the provision of section one hundred and one, will equal thirty dollars for each mile of highways within the town, outside the limits of incorporated villages, except that no town having an assessed valuation of three thousand seven hundred and fifty dollars or less per mile outside of incorporated villages shall be required to levy and collect a tax under this subdivision in excess of four dollars on each thousand dollars of assessed valuation.

2. The amount of money necessary to be levied and collected for the repair and construction of bridges, having a span of five feet or more.

3. The amount of money necessary to be levied and collected for the purchase, repair and custody of stone crushers, steam rollers, traction engines, road machines for grading and scraping, tools and implements.

4. The amount of money necessary to be levied and collected for the removal of obstructions caused by snow and for other miscellaneous purposes.

The amounts specified in such statement shall not exceed the limitations prescribed in section ninety-four. If the town superintendent is of the opinion that an amount in excess of the limitations therein prescribed be raised by tax, he shall include in his statement his reasons therefor in detail.

§ 91. **Duties of town board in respect to estimates; levy of taxes.** — The town board, at its meeting held on the Thursday succeeding general election day in each year, shall consider the estimates contained in such statement. It may, by a majority vote of the members thereof, approve such statement, or increase or reduce the amount of any of the estimates contained therein, subject to the limitations prescribed in section ninety-four. The

statement, as thus approved, increased or reduced shall be signed in duplicate by a majority of the members of the town board, one of which shall be filed in the office of the town clerk, and the other shall be delivered to the supervisor. The town clerk shall make and transmit a copy of such statement to the commission. The supervisor shall present such statement to the board of supervisors and such board shall cause the amounts contained therein, subject to the limitation requiring a vote of the electors as hereafter provided, to be assessed, levied and collected in such town in the same manner as other town charges, and such amounts shall be expended for the purposes specified in such statement. The warrant for the collection of taxes in such town shall direct the payment of the money so collected to the supervisor of the town, to be held by him and paid out for the purposes specified in such statement, as provided in this chapter.

§ 92. **Additional tax.**— Whenever the town superintendent and the town board shall determine that the sum of one thousand dollars will be insufficient to pay the expenses actually necessary for the removal of obstructions caused by snow and the prevention of such obstructions, and whenever they shall determine that the amounts levied and collected for any of the purposes mentioned in the statement presented to the board of supervisors, as provided in the preceding section, are insufficient to pay the expenses necessarily incurred for any of the purposes therein specified they may cause a vote to be taken by ballot at a biennial town meeting or at a special town meeting duly called therefor, authorizing such additional sum to be raised as they may deem necessary for such purpose, not exceeding one-third of one per centum upon the taxable property of the town as shown by the last assessment-roll thereof.

§ 93. **Extraordinary repairs of highways and bridges.**— If any highway or bridge shall at any time be damaged or destroyed by the elements or otherwise, or become unsafe for public use and travel, or if any bridge be condemned by the commission, as provided in this chapter, the town superintendent shall cause the same to be immediately repaired or rebuilt, with the approval of the town board. Such highway or bridge shall be so repaired or rebuilt in accordance with the directions or the plans and specifications prepared or approved by the district or county superintendent; except if the bridge to be repaired or rebuilt is one which has been condemned by the commission, as provided

in this chapter, the same shall be repaired or rebuilt in accordance with plans and specifications to be prepared or approved by the commission. If the expense of repairing or rebuilding a bridge hereunder shall exceed five hundred dollars, it shall be done under a written contract therefor, which must be approved by the town board. The town clerk shall prepare a statement showing the probable cost of improving, repairing or rebuilding such highway or bridge, which statement shall be signed in duplicate by a majority of the members of the town board, one of which duplicates shall be filed with the town clerk and one be delivered to the supervisor. The town clerk shall make a copy of such statement and transmit the same to the commission. The supervisor shall present such statement to the board of supervisors, who shall cause the amount contained in such statement to be assessed, levied and collected in the same manner as amounts levied and collected for other highway and bridge purposes, as provided by law. The amount so raised shall be paid to the supervisor to be expended for the purposes specified in such statement.

§ 94. **Limitations of amounts to be raised.**— The amounts to be raised by tax upon the vote of a town board, as provided in this article, shall be subject to the following limitations:

1. The amount to be levied and collected in each year for the repair and improvement of highways, including sluices, culverts and bridges having a span of less than five feet, shall not be less than the amount prescribed under subdivision one of section ninety.

2. Not more than fifteen hundred dollars shall be levied and collected in any one year in any town for the repair and construction of a bridge unless duly authorized by vote of a town meeting.

3. Not more than five hundred dollars shall be levied and collected in any one year in any town for the purchase or repair of stone crushers, steam rollers, traction engines or road machines for grading and scraping, tools and implements, unless duly authorized by the vote of a town meeting.

4. Not more than fifteen hundred dollars shall be levied and collected in any one year in any town for the repair or construction of any highway or bridge which has been damaged or destroyed as provided in section ninety-three or which has been condemned by the commission as provided in this chapter, unless duly authorized by vote of a town meeting.

§ 95. **Submission of propositions at town meetings.**— A proposition to authorize the levy and collection of an amount greater than that specified in the preceding section for any of the purposes therein mentioned may be submitted upon the written application of twenty-five taxpayers upon the last town assessment-roll or by a majority of the members of the town board, at a biennial town meeting or a special town meeting duly called as provided by law. The provisions of the town law relating to the submission of town propositions at a biennial or special town meeting shall apply to the submission of such propositions. If such proposition be adopted the town board shall include in the estimates contained in the next statement submitted by it to the board of supervisors, as provided in section ninety-one, the amounts authorized to be raised by such proposition for the purposes therein stated, and thereupon such amounts shall be levied and collected, and paid to the supervisor, to be expended by him as directed by such proposition.

§ 96. **Borrowing money in anticipation of taxes.** — The supervisor may, when authorized by the town board, borrow money in anticipation of taxes to be levied and collected, on the credit of the town, and issue certificates of indebtedness therefor in the following cases:

1. When an additional sum is directed to be levied and collected by a vote of a town meeting as provided in section ninety-two.

2. When an amount necessary for the payment of expenses incurred in the improvement, repair and rebuilding of a highway or bridge has been directed to be levied and collected as provided in section ninety-three.

3. When a proposition has been adopted at a town meeting as provided in section ninety-five authorizing the levy and collection of an amount greater than that specified in section ninety-four for any of the purposes therein mentioned.

Such certificates of indebtedness shall be signed by the supervisor and the town clerk and shall bear interest at a rate not exceeding six per centum for a period not exceeding one year. The amount so borrowed shall be paid out by the supervisor for the purposes for which the taxes, in anticipation of which such certificates were issued, is* to be levied and collected. The principal and interest of such certificates shall be paid by the supervisor immediately upon the collection of the taxes levied for such purposes.

* So in original.

§ 97. **Towns may borrow money for bridge and highway purposes.**— A proposition may be submitted at a regular or special town meeting in the manner provided by the town law, authorizing the town to borrow money upon its bonds, or other obligations, to be expended for the following purposes:

1. Constructing, building, repairing or discontinuing any highway or bridge therein, or upon its borders.

2. Repairing or rebuilding any highway or bridge which shall at any time be damaged or destroyed by the elements or otherwise, or become unsafe for public use and travel.

3. Repairing or rebuilding any bridge which has been condemned by the commission, as provided in this chapter.

4. The purchase of stone crushers, steam rollers and traction engines.

The vote upon any such proposition shall be by ballot. If any such proposition shall be adopted, the board of supervisors, upon the application of the town board, shall by resolution authorize the town to issue bonds not exceeding the amount specified in said proposition, which shall be sufficient to refund and pay any temporary loan or certificate of indebtedness, and to provide for the completion of any work authorized. There shall accompany such application a statement signed by a majority of the members of the town board, and certified by the town clerk, containing a copy of the proposition submitted, as above provided, the vote for and against the same, and specifying the amount which it is estimated will be required to be expended, pursuant to such proposition. If the highway or bridge, proposed to be constructed, built, repaired or discontinued, is situated in two or more towns in the same county, the board of supervisors shall, if application be made by each of such towns, apportion the expense thereof among such towns, in such proportion as it shall deem to be just. If the town adopting any such proposition shall contain any portion of the land of the forest reserve, the board of supervisors shall not authorize such town to borrow moneys without the written approval of the forest, fish and game commissioner, except in payment of a debt lawfully incurred by the town.

§ 98. **Issue and sale of town bonds.**— The board of supervisors shall, from time to time, impose upon the taxable property of the town a tax sufficient to pay the principal and interest of such obligations as they shall become due. The supervisors and town clerk shall each keep a record, showing the date and amount of

the obligations issued, the time and place of their payment, and the rate of interest thereon. The obligations shall be delivered to the supervisor of the town, who shall dispose of the same for not less than par and apply the proceeds thereof for the purposes for which they were issued. Not more than five hundred dollars of such proceeds shall be expended upon any highway or bridge, except in pursuance of a contract executed by the town superintendent as provided in section forty-eight.

§ 99. **Assessment of village property.**— In any town in which there may be an incorporated village, which forms a separate road district, and wherein the roads and streets are maintained at the expense of such village, all property within such village shall be exempt from the levy and collection of taxes levied in the town, as provided by section ninety-one of this article, for the repair and improvement of highways, including sluices, culverts and bridges having a span of less than five feet. The assessors of such town shall indicate in a separate column the value of the real and personal property included in such incorporated village.

§ 100. **Statement by clerk of board of supervisors.**—The clerk of the board of supervisors of each county shall, on or before the first day of January of each year, transmit to the state comptroller and the commission a statement, signed and verified by the chairman of the board, and certified by the clerk, which shall state the name of each town, the assessed valuation of real property, and the assessed valuation of personal property, each separately, in the towns outside incorporated villages, and the amount of tax levied therein for the repair and improvement of highways, including sluices, culverts and bridges having a span of less than five feet. The towns' valuation of real property to be used in such statement shall be the valuation thereof, as equalized by the boards of supervisors, or other competent authority, during the year prior to the levy of taxes upon which is based the determination of the amounts to be paid to the several towns, as provided in this article.

§ 101. **Amount of state aid.**— There shall be paid by the state to the several towns, in the manner hereinafter provided, an amount based upon the amount of taxes levied therein for the repair and improvement of highways, sluices, culverts and bridges having a span of less than five feet, and to be determined as follows:

1. In towns where the assessed valuation of real and personal property, exclusive of such property in incorporated villages, shall be less than five thousand dollars for each mile of highways in such towns, outside of incorporated villages, an amount equal to the amount of such taxes.

2. In towns where such assessed valuation shall be five thousand dollars or over and less than seven thousand dollars for each mile of such highways, an amount equal to ninety per centum of the amount of such taxes.

3. In towns where such assessed valuation shall be seven thousand dollars or over and less than nine thousand dollars for each mile of such highways, an amount equal to eighty per centum of the amount of such taxes.

4. In towns where such assessed valuation shall be nine thousand dollars or over and less than eleven thousand dollars for each mile of such highways, an amount equal to seventy per centum of the amount of such taxes.

5. In towns where such assessed valuation shall be eleven thousand dollars or over and less than thirteen thousand dollars for each mile of such highways, an amount equal to sixty per centum of the amount of such taxes.

6. In towns where such assessed valuation shall be thirteen thousand dollars or over for each mile of such highways, an amount equal to fifty per centum of such taxes. Provided that no town shall receive from the state in any year, under this section, an amount exceeding an average of twenty-five dollars per mile, for the total mileage of its highways outside of incorporated villages, except that in towns where the assessed valuation of real and personal property therein, exclusive of such property in incorporated villages, averages more than twenty-five thousand dollars for each mile of highways therein outside of such villages, the amount paid hereunder shall not exceed one-tenth of one per centum of such assessed valuation.

§ 102. **Mileage and assessed valuation.**— The mileage of highways in towns to be used in determining the amounts to be paid to such towns under the provisions of this article shall be the tables of mileage heretofore prepared by the state engineer, until the corrected tables of mileage prepared as provided in section fifteen of this chapter are filed. Such tables and all corrections thereof shall be filed with the commission and comptroller. The assessed valuation of real property to be used in determining

such amounts shall be the valuation thereof, equalized as provided in section one hundred and forty-one of this chapter, during the year prior to the levy of taxes upon which is based the determination of the amounts to be paid to the several towns, as provided in this article.

§ 103. **Payment and distribution of state money.**— The comptroller shall determine the amount due to the several towns, under the provisions of this article, and shall draw his warrant upon the state treasurer in favor of the county treasurer of each county for the total amount to be paid to the towns in such county, as so determined by him, and shall indicate the amount to be paid to each town. The county treasurer shall pay to the supervisor of each town the amount to which such town is entitled, as determined and indicated by the comptroller. No such payment shall be made until the supervisor has filed in the office of the county treasurer a certified copy of the undertaking given by him, as provided in this article.

§ 104. **Custody of highway moneys; undertaking of supervisor.** —All moneys levied and collected, as provided in this article, all moneys collected as penalties under this chapter, or received from any other source and available for highway, bridge and miscellaneous purposes and all moneys received from the state, as provided in section one hundred and one, shall be paid to the supervisor, who shall be the custodian thereof, and accountable therefor. Before receiving any such moneys the supervisor shall give an undertaking to the town in an amount to be specified by the commission and with such sureties, as shall be approved by the town board, conditioned for the faithful disbursement, safekeeping and accounting of the moneys so received by him. Such undertaking shall be filed in the office of the town clerk and a certified copy thereof shall be filed in the office of the county treasurer before any moneys received from the state shall be paid to him, and also in the office of the commission. In case of a failure of the supervisor to faithfully disburse, safely keep or account for moneys received from the state the commission may bring an action on such bond in the name of the town.

§ 105. **Expenditures for repair and improvement of highways.** — The moneys levied and collected for the repair and improvement of highways, including sluices, culverts and bridges having a span of less than five feet, and the moneys received from the state, as provided by section one hundred and one, shall be ex-

pended for the repair and improvement of such highways, sluices, culverts and bridges, at such places and in such manner as may be agreed upon by the town board and town superintendent. The town board and the town superintendent shall constitute a board for the purpose of determining the places where and the manner in which such moneys shall be expended. Such agreement shall be written and signed in duplicate by a majority of the members of the board so constituted, and shall be approved by the commission, before the same shall take effect. One of such duplicates shall be filed in the office of the town clerk and one in the office of the district or county superintendent. Such moneys shall be paid out by the supervisor on the written order of the town superintendent in accordance with such written agreement.

§ 106. **Expenditures for bridges and other highway purposes.**— The moneys levied and collected, or raised by the issue and sale of bonds or certificates of indebtedness in anticipation of taxes, as provided in this article, for purposes other than the repair or improvement of highways, as specified in the preceding section, shall be paid out by the supervisor upon the written order of the town superintendent after audit of the town board. Such audit shall be made on verified accounts presented to the town board at a regular or special meeting called for such purpose by the supervisor, or in his absence, by the town clerk, upon the request of the town superintendent. An account shall not be so audited or paid unless the expenditure be in accordance with the annual estimate of the town superintendent, as approved or modified by the town board, or be authorized by the town board or by a vote of a town meeting, as provided in this article, or be lawfully a charge upon the town. Except as herein otherwise provided the provisions of the town law relating to the audit of town accounts and claims shall apply to accounts and claims against the town arising under this chapter.

§ 107. **Reports of supervisor as to highway moneys.** — The supervisor shall present to the town board at its meeting held in each year, for considering the estimates contained in the statement of the town superintendent, as provided in section ninety-one, a verified report showing:

1. The moneys received from the state, as provided in section one hundred and one during the year ending October thirty-first.

2. The moneys received by him during such year on account of taxes levied and collected and from the issue and sale of bonds

and certificates of indebtedness in anticipation of taxes, for highways, bridges, purchase and repair of machinery, tools and implements, the removal of obstructions caused by snow and for miscellaneous purposes.

3. The moneys received by him during such year as penalties recovered pursuant to this chapter, or from any other source and available for highway purposes in his town.

4. The expenditures during such year for the improvement, repair and maintenance of highways, for the maintenance and repair of bridges, for the construction of new bridges, for damages and charges in laying out, altering and discontinuing highways, for the removal of obstructions caused by snow, for the purchase of machinery, tools and implements, for the rental or hire of stone crushers, steam rollers and traction engines, for town superintendents' salary or compensation and audited expenses, for allowances as fees on account of receiving and disbursing highway moneys, or for other highway purposes.

5. All machinery, tools and implements owned in whole or in part by the town, the present value of each article thereof, and the estimated cost of all necessary repairs thereto, as shown by the annual inventory of the town superintendent.

The form of such report shall be prescribed by the commission. Such report shall be filed in the office of the town clerk within three days after the presentation thereof and shall be open to public inspection during the office hours of such town clerk and a duplicate shall at the same time be mailed to the commission. A certified copy of such report shall also be filed by the supervisor with the clerk of the board of supervisors, who shall cause the same to be printed in the next issue of the annual proceedings of the board of supervisors. The town board shall cause a certified copy of the report to be published in a newspaper published in the town, or if there be none published therein, then in a newspaper published within the county and having the greatest circulation within the town. The expense of such publication, which shall not exceed ten dollars, shall be a town charge. The clerk of the board of supervisors shall transmit three copies of the journal of the proceedings of the board containing such report to the commission and three copies to the comptroller.

§ 108. **Highway accounts, forms and blanks.**— The commission shall prescribe the method of keeping town accounts of moneys received and expended, as provided in this article, for highways,

bridges, purchase, leasing, rental or hire and repair of machinery, tools and implements, the removal of obstructions caused by snow, and miscellaneous purposes, which shall be uniform, so far as practicable, throughout the state. Such commission may adopt forms and blanks for keeping such accounts. The commission shall also prescribe the form of order to be made by the town superintendent, upon the supervisor, and the form of the agreement to be entered into by the town board and town superintendent as provided in section one hundred and five. The town superintendent and supervisor shall keep their accounts in the method, and shall use the blanks and forms, prescribed by the commission. All orders and records of accounts shall be filed in the town clerk's office and preserved as a part of the town records.

§ 109. **Duty of town clerk.**— It shall be the duty of the town clerk, annually, between the fifteenth day of November, and the fifteenth day of December, to transmit to the commission a list containing the names of each supervisor, town superintendent, justice of the peace, town clerk, assessor and collector, showing his post office address, the date of his appointment or election and the expiration of his term of office.

§ 110. **Compensation of supervisor and town clerk.**— The supervisor and town clerk of each town shall receive annually, as compensation for services under this chapter in lieu of all other compensation and fees, an amount to be fixed by the town board. Such compensation shall be a town charge.

§ 111. **Additional expenditure for improvement, repair and maintenance of town highways.**— Upon the written application of twenty-five taxpayers of a town, filed with the town clerk, the electors thereof may, at a regular or special town meeting, vote by ballot upon a proposition for the expenditure of a sum, not exceeding one-third of one per centum of the total taxable property of the town, including incorporated villages, in addition to the sum authorized by this chapter for the improvement, repair and maintenance of town highways in such town. Such proposition shall be submitted in the manner provided by law for the submission of questions or propositions at a town meeting. If such proposition be adopted, the amount specified therein shall be a town charge and shall be levied and collected in the same manner as other town moneys, and when collected shall be paid to the supervisor and expended for the purposes specified in such proposition as provided in this chapter.

ARTICLE VI.

STATE AND COUNTY HIGHWAYS.

Section 120. Highways to be constructed or improved by the state.
121. Construction or improvement of state highways.
122. Construction or improvement of county highways.
123. Preliminary resolution of board of supervisors.
124. Examination of county highway; approval or disapproval of commission.
125. Maps, plans, specifications and estimates.
126. Submission of maps, plans and specifications to district or county superintendent.
127. Action of commission in respect to maps, plans, specifications and estimates.
128. Final resolution of board of supervisors.
129. Order of construction of county highways.
130. Contracts for construction or improvement of highways.
131. Award of contracts to board of supervisors or town board.
132. Suspension of work under contract, completion by commission.
133. Acceptance of state highway when completed.
134. Acceptance of county highway.
135. Entry upon adjacent lands for drainage purposes.
136. Damages for entry.
137. State and county highways in villages.
138. Connecting highways in villages.
139. Resolution to provide for raising money.
140. Modifying method of payment.
141. Division of cost of county highways; payments by county treasurer.
142. County or town may borrow money.
143. Payments from state treasury.
144. Payment of cost of state highway.
145. Abolition of railroad grade crossings.
146. Street surface railroads on highways.
147. Where cost is assessable against abutting owners.

Section 148. Acquisition of lands for right of way and other purposes.
149. Purchase of lands.
150. Petition to acquire lands.
151. Commissioners to be appointed.
152. Duties of commissioners.
153. County treasurer to pay award.
154. Costs; commissioners' fees.
155. Lands may be sold or leased; disposition of proceeds.
156. Provisions of labor law not applicable.
157. Highways and bridges on Indian reservations.

§ 120. Highways to be constructed or improved by the state. — The highways which have been heretofore constructed or improved under the provisions of chapter one hundred and fifteen of the laws of eighteen hundred and ninety-eight, and the acts amendatory thereof, which are included in the routes hereinafter described, together with such other highways as are constructed or improved by the commission in accordance with the routes set forth and described in this section, shall be state highways and shall be constructed or improved at the sole expense of the state as provided in this article. Such routes are hereby set forth and described as follows:

Route 1. Commencing at a point on the dividing line between Westchester county and New York, and running thence northerly through Mount Vernon to Eastchester road, thence northerly along Eastchester road, thence westerly in Eastchester to Post road, thence northerly along Post road to White Plains, thence southeasterly along Westchester avenue to Purchase street, thence northerly by Purchase street, by Rye lake and King street to state road, thence northerly by same to Armonk, thence easterly and northeasterly through the town of North Castle to Bedford village, thence northerly to Katonah, thence along the east side of the Croton river by Golden's bridge and Purdy's station to a point on the dividing line between Putnam and Westchester counties at or near Croton Falls, running thence northerly through the eastern portion of Putnam county by the way of Brewster, to a point on the dividing line between Dutchess and Putnam counties at or near Patterson, running thence northerly by the way of Pawling, Wingdale, Dover Plains, Amenia, to a point to be determined by

the commission, on the dividing line between Columbia and Dutchess county, running thence northerly in Columbia county by the way of Copake to Chatham, thence northwesterly to a point at or near Valatie, running thence northerly to a point to be determined by the commission, on the dividing line between Rensselaer and Columbia counties, running thence northerly and northwesterly through the southwestern portion of Rensselaer county to a point to be determined by the commission on the Hudson river opposite or nearly opposite the city of Albany.

Route 2. Commencing at Jerome avenue on the dividing line between Westchester county and New York city and running thence northerly along Jerome avenue and Central Park avenue to Hartsdale, thence along the Sprain road and Landers road to Fair Grounds, thence northerly to cross road between Greenburgh, and Mount Pleasant, thence westerly along the same to the Saw Mill River road and the Tarrytown Lake road to Bedford road, thence along the Sleepy Hollow road northerly and westerly to the Albany post road, thence northerly along Albany post road through Briar Cliff, Ossining and Croton Landing, thence along Old Yorktown road to Cornell Dam, thence along westerly side of Croton lake to Dixie Hill, thence northerly along Croton avenue to Crompound road, thence westerly along Crompound road through Peekskill to Albany post road, thence northerly from Peekskill, to a point to be determined by the commission, on the dividing line between the towns of Phillipsburg, Putnam county, and Cortlandt, Westchester county, running thence northerly through the western portion of Putnam county to a point to be determined by the commission, on the dividing line between Dutchess and Putnam counties, running thence northerly by the way of the city of Poughkeepsie and Rhinebeck, to a point to be determined by the commission, on the dividing line between Columbia and Dutchess counties, running thence northerly, northeasterly and northwesterly by the way of Claverack, to the city of Hudson, running thence northeasterly from the city of Hudson to a point at or near Valatie, connecting with route number one, as above described.

Route 3. Commencing at a point to be determined by the commission, on the dividing line between the towns of Orangetown, Rockland county, and the state of New Jersey, running thence northerly through the eastern portion of Rockland county by the way of points at or near Nyack and Haverstraw, to a point

to be determined by the commission, on the dividing line between Orange and Rockland counties, running thence northerly through the eastern portion of Orange county to the city of Newburg, thence northerly from the city of Newburg to a point to be determined by the commission, on the dividing line between Ulster and Orange counties, running thence northerly through the eastern portion of Ulster county to the city of Kingston, running thence northerly from the city of Kingston to a point to be determined by the commission, on the dividing line between Greene and Ulster counties, running thence northerly through the eastern portion of Greene county to points at or near Catskill, Athens and Coxsackie, to a point to be determined by the commission, on the dividing line between Albany and Greene counties, running thence northerly to the city of Albany.

Route 4. Commencing at a point to be determined by the commission on route number three, running thence through Orange county by the way of Middletown to a point to be determined by the commission, on the dividing line between Sullivan and Orange counties, running thence westerly and northerly through Sullivan county by the way of the Monticello to a point to be determined by the commision, on the dividing line between Delaware and Sullivan counties, thence to Deposit, on the dividing line between Broome and Delaware counties, running thence westerly by the way of Windsor to the city of Binghamton, running thence westerly from the city of Binghamton by the way of Lestershire and Endicott, to a point to be determined by the commission, on the dividing line between Tioga and Broome counties, running thence westerly through the southern portion of Tioga county, to a point to be determined by the commission, on the dividing line between Chemung and Tioga counties, running thence westerly and northwesterly through the southern portion of Chemung county, to the city of Elmira, running thence northerly from the city of Elmira to a point at or near Horseheads, running thence westerly to a point to be determined by the commission on the dividing line between Steuben and Chemung counties, running thence westerly and northwesterly by the way of Corning, Addison, and Canisteo, to the city of Hornell, running thence northwesterly and southwesterly from the city of Hornell to a point at or near Almond on the dividing line between Allegany and Steuben counties, running thence southwesterly to Wellsville, running thence northwesterly and westerly by the way of Belmont, Belvi-

dere and Friendship and Cuba, to a point to be determined by the commission on the dividing line between Cattaraugus and Allegany counties, running thence southwesterly to the city of Olean, running thence westerly and northwesterly from the city of Olean by the way of Salamanca, to a point to be determined by the commission, on the dividing line between Chautauqua and Cattaraugus counties, running thence westerly to the city of Jamestown, thence northwesterly by the way of Mayville, to Westfield.

Route 5. Commencing at the city of Kingston, running thence northwesterly by the way of West Hurley, Shokan and Pine Hill, to a point to be determined by the commission, on the dividing line between Delaware and Ulster counties, running thence westerly to Margaretville, running thence northerly by the way of Roxbury to Grand Gorge, running thence northwesterly to a point to be determined by the commission, on the dividing line between Schoharie and Delaware counties, running thence northwesterly and westerly to a point to be determined by the commission, on the dividing line between Delaware and Schoharie counties, running thence northwesterly and westerly by the way of Harpersfield, North Kortright and Davenport, to a point to be determined by the commission, on the dividing line between Otsego and Delaware counties, running thence to Oneonta, Otsego county, running thence northeasterly along route number seven to Colliers; running thence northerly in Otsego county by the way of Cooperstown and Richfield Springs to a point to be determined by the commission, on the dividing line between Herkimer and Otsego counties; running thence northerly to Herkimer connecting with route number six.

Route 6. Commencing at a point to be determined by the commission at the city of Albany, running thence northwesterly to a point to be determined by the commission, on the dividing line between Schenectady and Albany counties, running thence northwesterly to the city of Schenectady, running thence northwesterly from the city of Schenectady to a point to be determined by the commission, on the dividing line between Montgomery and Schenectady counties, running thence westerly and northwesterly through Montgomery county by the way of Fonda and St. Johnsville, to a point at or near East Creek, on the dividing line between Herkimer and Montgomery counties, running thence westerly and northwesterly by the way of Little

Falls and Herkimer, to a point to be determined by the commission, on the dividing line between Herkimer and Oneida counties, running thence westerly to the city of Utica, running thence westerly from the city of Utica to Oneida, on the dividing line between Madison and Oneida counties, running thence westerly by the way of Chittenango, to a point to be determined by the commission on the dividing line between Onondaga and Madison counties, running thence westerly by the way of Fayetteville, to the city of Syracuse, running thence from the city of Syracuse by the way of Camillus and Elbridge, to a point to be determined by the commission, on the dividing line between Cayuga and Onondaga counties, running thence southwesterly to the city of Auburn, running thence from the city of Auburn to a point to be determined by the commission on the dividing line between Seneca and Cayuga counties, running thence westerly to Seneca Falls, thence southerly through the village of Seneca Falls to the south side of Seneca lake outlet, thence westerly on the south side of Seneca lake outlet to a point at the foot of Seneca lake, running thence westerly to a point to be determined by the commission on the dividing line between Ontario and Seneca counties, running thence westerly to Geneva, running thence westerly from Geneva to Canandaigua, running thence westerly to a point to be determined by the commission, on the dividing line between Livingston and Ontario counties, running thence westerly by the way of Avon and Caledonia, to a point to be determined by the commission, on the dividing line between Genesee and Livingston counties, running thence westerly by the way of Batavia, to a point to be determined by the commission, on the dividing line between Erie and Genesee counties, running thence westerly to the city of Buffalo, Erie county.

Route 7. Commencing at a point to be determined by the commission on the dividing line between the town of Binghamton in Broome county and Pennsylvania, running thence northerly to the city of Binghamton; running thence northerly and northeasterly from the city of Binghamton on the east side of the Chenango river, by the way of Port Crane, Sanitaria Springs and Harpursville, to Nineveh, on the dividing line between Chenango and Broome counties, running thence northeasterly along the Susquehanna valley, to a point at or near Sidney, on the dividing line between Chenango and Delaware counties, running thence northeasterly by the way

of Sidney to a point to be determined by the commission, on the dividing line between Otsego and Delaware counties, running thence northeasterly along the Susquehanna valley to Oneonta, running thence northeasterly from Oneonta by the way of Maryland and Worcester, to a point to be determined by the commission, on the dividing line between Schoharie and Otsego counties, running thence easterly by the way of Cobleskill to a point to be determined by the commission, on the dividing line between Albany and Schoharie counties at or near West Berne, running thence easterly to the city of Albany.

Route 8. Commencing at the city of Binghamton, running thence northerly on the west side of the Chenango river to Chenango Forks, on the dividing line between Chenango and Broome counties, running thence along the west bank of the Chenango river to North Norwich, running thence northerly by the way of Sherburne to Earlville, on the dividing line between Madison and Chenango counties, running thence northerly by the way of Hamilton and Bouckville, to a point at or near Oriskany Falls, on the dividing line between Oneida and Madison counties, running thence northeasterly by the way of Deansboro to a point to be determined by the commission connecting with route number six.

Route 9. Commencing at a point to be determined by the commission, at or near Horseheads, Chemung county, New York, on route number four, running thence northerly and northeasterly by the way of Horseheads, Breesport and Erin to a point to be determined by the commission on the dividing line between Tioga and Chemung counties, running thence easterly and northeasterly by the way of North Spencer to a point to be determined by the commission on the dividing line between Tompkins and Tioga counties, running thence northerly to the city of Ithaca, running thence northeasterly by the way of a point to be determined by the commission at or near Dryden to a point to be determined by the commission on the dividing line between Cortland and Tompkins counties, running thence northeasterly to Cortland, thence northeasterly by the way of Truxton to a point to be determined by the commission on the dividing line between Madison and Cortland counties at or near De Ruyter, thence northerly to Cazenovia, thence easterly by the way of Morrisville to a point at or near Bouckville on route number eight.

Route 10. Beginning at the city of Syracuse, running thence southerly to a point to be determined by the commission on the dividing line between Cortland and Onondaga counties, running thence southerly by the way of Homer to Cortland, thence southeasterly by the way of McGrawville, Solon and Willett to a point to be determined by the commission on the dividing line between Chenango and Cortland counties, thence southeasterly by the way of Smithville Flats to Greene, thence easterly by the way of Coventry to Coventryville, thence southeasterly to Afton, connecting with route number seven.

Route 11. Commencing at the city of Ithaca, running thence northerly to a point to be determined by the commission, on the dividing line between Cayuga and Tompkins counties, running thence northerly to the city of Auburn.

Route 12. Commencing at a point at or near Horseheads, at a point to be determined by the commission, running thence northerly to a point to be determined by the commission, on the dividing line between Schuyler and Chemung counties, running thence northerly by the way of Watkins, to a point to be determined by the commission, on the dividing line between Yates and Schuyler counties, running thence northwesterly by the way of Dundee, to the village of Penn Yan, running thence northerly to a point on the dividing line between Ontario and Yates counties, running thence northerly to the city of Geneva, running thence northerly from the city of Geneva, to a point to be determined by the commission, on the dividing line between Wayne and Ontario counties, running thence northerly to Lyons, connecting with route number twenty.

Route 13. Commencing at Bath, Steuben county, running thence northeasterly by the way of Hammondsport to a point to be determined by the commission on the dividing line between Schuyler and Steuben counties, thence northeasterly to a point to be determined by the commission on the dividing line between Yates and Schuyler counties, thence northeasterly to Dundee on route number twelve.

Route 14. Commencing at Corning, Steuben county, running thence northwesterly by the way of Bath, Avoca to Cohocton, running thence northerly from Cohocton, to a point to be determined by the commission on the dividing line between Ontario and Steuben counties, running thence northeasterly to Naples, running thence northerly from Naples to a point to

be determined by the commission, connecting with route number six, running thence along route number six, to Holcomb; running thence northwesterly to a point to be determined by the commission on the dividing line between Monroe and Ontario counties, thence northerly to Pittsford, thence westerly, then northerly to the city of Rochester.

Route 15. Commencing at Hornell, Steuben county, running thence northwesterly to a point to be determined by the commission, on the dividing line between Allegany and Steuben counties, running thence northerly to a point to be determined by the commission, on the dividing line between Livingston and Allegany counties, running thence northerly by the way of Dansville and Mount Morris, thence northwesterly and northerly by the way of Moscow and York to a point on route number six at or near Caledonia.

Route 16. Commencing at the village of Cuba, Allegany county, running thence northeasterly by the way of Belfast and Caneadea, to a point to be determined by the commission, on the dividing line between Wyoming and Allegany counties, running thence northerly by the way of Pike, Gainsville and Rock Glen to Warsaw, running thence northerly to a point to be determined by the commission, on the dividing line between Genesee and Wyoming counties, running thence northerly to the village of Le Roy, running thence along route number six to Caledonia, running thence northerly to a point to be determined by the commission on the dividing line between Monroe and Livingston counties, running thence northerly by the way of Scottsville to the city of Rochester.

Route 17. Commencing at a point to be determined by the commission on route number four at or near Hinsdale, running thence northerly by the way of Franklinville and Machias to a point to be determined by the commission near the dividing lines of Erie, Wyoming and Cattaraugus counties, running thence northwesterly by the way of East Aurora to the city of Buffalo.

Route 18. Commencing at a point to be determined by the commission, on the dividing line between Ripley, Chautauqua county, and the state of Pennsylvania, running thence northeasterly by the way of Westfield, Brocton, Fredonia, along the old Buffalo and Erie road, to a point to be determined by the commission, on the dividing line between Erie and Chautauqua counties, running thence northeasterly and northerly to the city of Buffalo,

running thence northerly from the city of Buffalo to the city of Tonawanda, running thence northwesterly and westerly from North Tonawanda to the city of Niagara Falls, running thence northerly from Niagara Falls by the way of Lewiston to a point near the mouth of the Niagara river, Niagara county.

Route 19. Commencing at the city of Buffalo, running thence easterly to Marilla, thence southerly to Wales Center, thence easterly to a point to be determined by the commission on the dividing line between Wyoming and Erie counties, running thence easterly to Varysburg, thence northerly by the way of Attica to a point to be determined by the commission on the dividing line between Genesee and Wyoming counties, running thence northeasterly to Batavia, Genesee county, connecting with route number six.

Route 20. Commencing at a point on route number six, at or near Elbridge, in Onondaga county, running thence northerly to Jordan and westerly to a point to be determined by the commission, on the dividing line between Cayuga and Onondaga counties, running thence northwesterly and southwesterly by the way of Port Byron and Montezuma, to a point to be determined by the commission, at or near the dividing lines between Wayne, Seneca and Cayuga counties, running thence northwesterly and westerly from Savannah, Clyde, Lyons, Palmyra, and Macedon to a point to be determined by the commission, on the dividing line between Monroe and Wayne counties, running thence northwesterly to the city of Rochester, Monroe county.

Route 21. Commencing at a point on the Hudson river at or near Albany and running thence easterly to a point at or near Sand Lake, running thence southerly to a point at or near Nassau, in Rensselaer county, running thence southeasterly to a point to be determined by the commission, on the dividing line between Columbia and Rensselaer counties, to a point to be determined by the commission, on the dividing line between Columbia county and the state of Massachusetts.

Route 22. Commencing at a point in Rensselaer county at or near the city of Troy, running thence northeasterly by the way of Raymertown, to Potter Hill, running thence northerly through Hoosick Falls, to a point at or near Eagle Bridge, on the dividing line between Washington and Rensselaer counties, running thence northerly by the way of Cambridge, Salem and Granville by the way of Whitehall and the shore road along Lake

Champlain to Putnam; and commencing at a point on route twenty-five at Riparius in Warren county, and running thence to a point to be determined by the commission on the dividing line between Essex and Warren counties, and running thence northerly by way of Schroon Lake village to Elizabethtown, running thence westerly to Keene, thence northerly to Ausable Forks and a point on the dividing line between Clinton and Essex counties, thence northeasterly to a point at or near Ausable Chasm, thence northerly by the way of Plattsburgh and Chazy to Rouses Point.

Route 23. Commencing at the village of Ilion, running thence southwesterly to a point at or near the intersection of the three counties, Otsego, Oneida and Herkimer, running thence westerly in Otsego county to a point to be determined by the commission on the dividing line between Oneida and Otsego counties, running thence northerly to the city of Utica, running thence northeasterly through the town of Deerfield to a point to be determined by the commission on the dividing line between Herkimer and Oneida counties, thence easterly to the village of Norway.

Route 24. Commencing at a point on route number six at Fonda, Montgomery county, running thence northerly to a point to be determined by the commission on the dividing line between Fulton and Montgomery counties, running thence northerly by the way of Johnstown and Gloversville to Northville, running thence northerly to a point to be determined by the commission on the dividing line between the counties of Hamilton and Fulton, running thence northerly to Lake Pleasant.

Route 25. Commencing at Whitesboro near Utica on route number twenty-eight in Oneida county, running thence northerly, by the way of Marcy, Holland Patent, Remsen, Alder Creek and White Lake Corners, to a point to be determined by the commission, at or near the dividing lines between Herkimer, Lewis and Oneida counties, running thence northeasterly by the way of Fulton Chain, and on or near the highways laid out, to a point to be determined by the commission, on the dividing line between Hamilton and Herkimer counties, running thence easterly by the way of Raquette Lake, and on the south shore of Raquette Lake, running thence northeasterly to Blue Mountain Lake, running thence northerly to Long Lake, running thence easterly to a point to be determined by the commission, on the dividing line between Essex and Hamilton counties, running thence easterly to Newcomb, running thence southeasterly

by the way of Minerva, to a point to be determined by the commission, on the dividing line between Warren and Essex counties, running thence by the way of North Creek, Riparius and Warrensburg to Lake George, running thence southerly to a point to be determined by the commission on the dividing line between Saratoga and Warren counties at or near Glens Falls, running thence southerly by the way of Saratoga Springs to Ballston Spa, running thence southeasterly to a point to be determined by the commission on the dividing line between Albany and Saratoga counties, running thence southerly to a point to be determined by the commission at or near the city of Albany.

Route 26. Commencing at Little Falls, running thence by the way of Manheim Corners, Dolgeville and Salisbury Center to Fairfield, running thence northwesterly to a point to be determined by the commission, at or near Prospect, on the dividing line between Oneida and Herkimer counties, running thence northwesterly to a point to be determined by the commission, connecting with route number twenty-five.

Route 27. Commencing at a point on route number twenty-five, to be determined by the commission near Alder Creek, running thence northwesterly by the way of Booneville, to a point on the dividing line between Lewis and Oneida counties, running thence northerly by the way of Lowville, to a point at or near Carthage, on the dividing line between Jefferson and Lewis counties, running thence northwesterly and westerly to the city of Watertown, running thence northwesterly from the city of Watertown to Clayton, thence northeasterly to Alexandria Bay, Jefferson county.

Route 28. Commencing at the city of Utica, Oneida county, running thence northwesterly to Rome, running thence northwesterly from Rome, by the way of Camden, to a point to be determined by the commission, on the dividing line between Oswego and Oneida counties, running thence northwesterly by the way of Parish to Union Square, Oswego county.

Route 29. Commencing at Rome, running thence southwesterly to Oneida, being a point on the dividing line between Madison and Oneida counties.

Route 30. Commencing at Rouses Point, in Clinton county, running thence westerly through the northern part of Clinton county, to a point to be determined by the commission, on the dividing line between Franklin and Clinton counties, running thence westerly by the way of Burke, Malone and Moira, to a point

to be determined by the commission, on the dividing line between Saint Lawrence and Franklin counties, running thence westerly to North Lawrence, running thence southerly to a point at or near Nicholville, running thence westerly and southwesterly by the way of Potsdam, Canton and Gouverneur, to a point to be determined by the commission, on the dividing line between Jefferson and Saint Lawrence counties, running thence southwesterly by the way of Philadelphia to Watertown, running thence southerly from Watertown, by the way of Adams and Pierrepont Manor, to a point to be determined by the commission, on the dividing line between Oswego and Jefferson counties, running thence southerly and southwesterly and westerly by the way of Pulaski and Union Square to Oswego, running thence westerly from Oswego to a point to be determined by the commission, on the dividing line between Cayuga and Oswego counties, running thence southwesterly through the northern part of Cayuga county to a point to be determined by the commission, on the dividing line between Wayne and Cayuga counties, running thence southwesterly and westerly by the way of Red Creek, Walcott, Alton, Sodus, Williamson and Ontario to a point to be determined by the commission on the dividing line between Monroe and Wayne counties, running thence southwesterly to the city of Rochester, running thence westerly from the city of Rochester by the way of Spencerport, to a point to be determined by the commission, on the dividing line between Orleans and Monroe counties, running thence westerly to points at or near Albion and Medina, to a point to be determined by the commission, on the dividing line between Niagara and Orleans counties, running thence westerly to a point to be determined by the commission, connecting with route number eighteen.

Route 31. Commencing at Malone, Franklin county, running thence southerly by the way of a point at or near Duane and Meacham Lake to Saranac Junction.

Route 32. Commencing at North Lawrence in St. Lawrence county, running thence westerly to Winthrop, running thence northerly to Massena, running thence southwesterly by the way of Waddington to Ogdensburg.

Route 33. Commencing at Syracuse, running thence northerly to a point to be determined by the commission, on the dividing line between Oswego and Onondaga counties, running thence

northerly by the way of Central Square to a point at or near Colosse on route number twenty-eight.

Route 34. Commencing at the city of Oswego on the east side of the river, running thence by the way of Fulton through Phoenix to a point to be determined by the commission on the dividing line between Onondaga and Oswego counties, running thence by the way of Liverpool to Syracuse.

Route 35. Commencing at a point to be determined by the commission on the dividing line between Nassau and Queens counties, running thence easterly through the northern portion of Nassau county to a point to be determined by the commission on the dividing line between Suffolk and Nassau counties, running thence easterly by the way of Jericho turnpike to Smithtown branch, Saint James, Port Jefferson and Wading River to Riverhead, running thence southerly to West Hampton, running thence westerly by the way of south country road to Patchogue, Sayville, Islip, Bay Shore and Babylon to Amityville, running thence westerly to a point to be determined by the commission on the dividing line between Nassau and Suffolk counties, running thence westerly through the southern portion of Nassau county to a point to be determined by the commission on the dividing line between Queens and Nassau counties.

Route 36. Commencing at Owego in Tioga county, running thence northerly to a point to be determined by the commission on the dividing line between Tompkins and Tioga counties, running thence northwesterly to the city of Ithaca, running thence northwesterly from the city of Ithaca to Trumansburg, at or near the dividing line between Seneca and Tompkins counties, running thence northwesterly and northerly by the way of Ovid to a point to be determined by the commission on route number six.

Route 37. Commencing at Johnstown in Fulton county, running thence northeasterly by the way of Broadalbin to a point to be determined by the commission on the dividing line between Saratoga and Fulton counties, running thence easterly by the way of Galway to Saratoga Springs connecting with route number twenty-five.

§ 121. **Construction or improvement of state highways.**—The state highways shall be constructed or improved by the commission as provided in this article. The mileage to be constructed from the amount available from the sale of bonds issued as provided by chapter four hundred and sixty-nine of the laws of nine-

teen hundred and six, as amended by chapter seven hundred and eighteen of the laws of nineteen hundred and seven, and appropriated for the construction or improvement of state highways, shall be equitably apportioned by the commission among the several counties without discrimination; but not more than one-half of the amount appropriated each year from the proceeds of the sale of such bonds shall be expended under this article for the construction and improvement of state highways. In making the apportionment between counties the commission shall take into consideration the mileage which may be constructed from the amount to be expended under this article in each county for the construction or improvement of county highways, together with the mileage of state and county highways theretofore constructed out of moneys derived from the sale of bonds issued as above provided.

§ 122. **Construction or improvement of county highways.**—The county highways to be constructed or improved under this article at the joint expense of the state, county and town, shall be those highways in each county determined by the commission to be of sufficient public importance to come within the purposes of this chapter, so as to constitute a part of a properly developed system of improved market roads within the county, taking into account the use, location and value of such highways for the purposes of common traffic and travel. Such county highways shall be equitably apportioned by the commission among the several counties without discrimination. In making such apportionment the commission shall take into consideration the total mileage of state highways which shall be hereafter constructed or improved in each county, and also the highways therein which have been constructed or improved prior to the taking effect of this article from funds made available by the issue and sale of bonds as provided in section twelve of article seven of the constitution, so that there shall be an equitable distribution as between the counties of all highways built in whole or in part from such funds.

§ 123. **Preliminary resolution of board of supervisors.**—The board of supervisors of any county may pass a resolution stating that public interest demands the improvement of a highway or section thereof within the county, and requesting that it be constructed or improved as provided in this article. Such resolution shall contain a description of such highway or section thereof. Such highway or section thereof shall not include a portion of

a highway within a city, nor any portion of a highway within an incorporated village, unless it be necessary to complete the connection of such highway with a highway already improved or to be improved under this article. The clerk of the board of supervisors shall, within ten days after the passage of such a resolution, transmit a certified copy thereof to the commission.

§ 124. **Examination of county highway; approval or disapproval by commission.**— The commission after receipt of such resolution, and at such times as it deems proper, shall examine the highway or section thereof sought to be constructed or improved, and shall determine whether it is of the character specified in section one hundred and twenty-two, and whether the construction or improvement thereof will provide for an equitable apportionment of the highways among the several counties as provided in such section. After such examination the commission shall certify its approval or disapproval of such resolution to the board of supervisors adopting it; if it disapprove thereof it shall certify its reasons therefor.

§ 125. **Maps, plans, specifications and estimates.**—Whenever the commission shall have determined upon the construction or improvement of a state highway, or section thereof, or shall have approved a resolution adopted by a board of supervisors in any county requesting the construction or improvement of a county highway, or a section thereof, the commission shall direct the division engineer of the division wherein such highway or section thereof is situated to make surveys, and prepare suitable preliminary maps, plans and specifications. Such division engineer shall, subject to the direction and control of the commission, have the following powers and duties in respect to such highways:

1. He shall cause the highway or section thereof designated by the commission, or described in such resolution, to be mapped both in outline and profile.

2. He may provide for a deviation from the line of a highway already existing, if thereby a shorter or more direct highway, or a lessened gradient may be obtained without decreasing the usefulness of the highway.

3. He may provide for the widening of an existing highway.

4. He shall prepare preliminary plans and specifications for the construction or improvement of such highway or section thereof providing for a telford, macadam or gravel roadway, or other suitable construction, taking into consideration climate, soil

and materials to be had in the vicinity thereof, and the extent and nature of the traffic likely to be upon such highway, specifying in his judgment the kind of highway a wise economy demands.

5. He shall provide in such plans and specifications for necessary culverts, drains, ditches, waterways, embankments, guard-rails and retaining walls.

6. He may provide therein for the removal or planting of trees, within the boundaries of the highway, when necessary for the preservation thereof.

7. He shall provide therein for the erection of suitable guide boards.

8. He may provide for such other work as may be required to complete the construction or improvement in a proper manner.

9. He shall cause an estimate to be made of the cost of the construction of such highway or section thereof in accordance with such plans and specifications. In making such estimate he shall ascertain with all practical accuracy the quantity of embankment, excavation and masonry, the quantity of all materials to be used and all items of work to be placed under contract and specify the estimated cost thereof.

§ 126. **Submission of maps, plans and specifications to district or county superintendent.**— The commission shall cause the preliminary maps, plans and specifications for either a state or county highway, or a copy thereof, to be presented to the district or county superintendent of the district or county in which such highway or section thereof is situated, who shall personally examine the highway or section thereof and the proposed maps, plans and specifications, and shall recommend any modification thereof which in his judgment seems to be necessary and shall report thereon within sixty days to the commission. He shall also take such other action in respect thereto as may be required by law or by the commission.

§ 127. **Action of commission in respect to maps, plans, specifications and estimates.**— Upon receiving the report of the district or county superintendent, as provided in the preceding section, the commission shall finally adopt the maps, plans, specifications and estimates which are to be used for the construction or improvement of the state or county highway to be constructed or improved. If such highway be a state highway the commission shall thereupon proceed to advertise and award contracts for the construction or improvement thereof as provided

in section one hundred and thirty. If such highway be a county highway the commission shall transmit such plans, specifications and estimates as adopted by them to the board of supervisors of the county from which the resolution proceeded, together with their certificate approving the construction or improvement of the highway or section thereof designated in such resolution.

§ 128. **Final resolution of board of supervisors.**— The board of supervisors, after the receipt of plans, specifications and estimate of a county highway or section thereof, and after such modification thereof as may be made by a majority vote of such board, with the consent of the commission, may approve such plans, specifications and estimate, and adopt a resolution requesting that such county highway or section thereof be constructed or improved under the provisions of this article, in accordance therewith. In the case of a county highway or a section thereof which divides two or more counties, such resolution must be separately adopted by the board of supervisors of each county within which a portion of such highway lies. The form of such resolution shall be prescribed by the commission and shall contain the matter required by this article to be inserted therein. Immediately upon the adoption of such resolution the clerk of the board of supervisors shall transmit a certified copy thereof to the commission. When a board of supervisors has once adopted a resolution providing for the construction or improvement of a highway or a section thereof in accordance with such plans and specifications, no resolution thereafter adopted by such board shall rescind or annul such prior resolution either directly or indirectly, excepting under the advice and with the consent of the commission. Notwithstanding the adoption of such a resolution, the commission may modify such plans, specifications and estimate, prior to the award of a contract therefor and, upon the approval thereof by the board of supervisors as above provided, such highway or section thereof shall be constructed or improved in accordance with such plans, specifications and estimate.

§ 129. **Order of construction of county highways.**— Upon the receipt of such resolution the commission shall proceed with the improvement or construction of such county highway as provided in this article. The construction and improvement of such county highways and sections thereof shall be taken up and carried forward within a county in the consecutive order as determined by the date of the receipt by the commission in each case of the

certified copy of the final resolution, so far as is practicable in the opinion of the commission. No such highway shall be placed upon the list of highways to be constructed or improved nor receive a consecutive number on such list, unless such resolution shall appropriate and make immediately available for such construction or improvement the counties' and towns' share of the cost thereof, or shall request that the whole cost of such construction or improvement shall be paid in the first instance by the state and that the county and town or towns shall be charged annually by the comptroller with the amount properly chargeable thereto, under the provisions of chapter four hundred and sixty-nine of the laws of nineteen hundred and six, and the acts amendatory thereof.

§ 130. **Contracts for construction or improvement of highways.** — State and county highways shall be constructed or improved by contract. Upon the completion and final adoption or approval, as provided by law, of the plans, specifications and estimate for the construction or improvement of a state or county highway, contracts therefor shall be executed as provided herein.

1. Advertising for proposals.— The commission shall advertise for proposals for the construction or improvement of such highways or sections thereof according to the plans, specifications and estimate prepared therefor. The advertisement shall be limited to a brief description of the work proposed to be done, with an announcement stating where the maps, plans, specifications and estimate may be seen, the terms and conditions under which proposals will be received, the time and place where the same will be opened, and such other matters as the commission may deem advisable to include therein. Such advertisement shall be published at least once in each week for two successive weeks in a newspaper published at the county seat of the county in which such highway or section thereof is to be constructed or improved, and in such other newspapers as the commission may designate.

2. Proposals.— Each proposal shall specify the gross sum for which the work will be performed and shall also include the amount to be charged for each item specified in the estimate. The commission may prescribe and furnish forms for the submission of such proposals and may prescribe the manner of submitting the same which shall not be inconsistent herewith. The proposals when opened shall be subject at all reasonable times to public inspection, and at the time of opening shall be publicly read, and

conspicuously posted in such a manner as to indicate the several items of the proposal.

3. Award of contracts.— The contract for the construction or improvement of such highway or section thereof shall be awarded to the lowest responsible bidder, except that no contract shall be awarded at a greater sum than the estimate made for the construction or improvement of such highway or section thereof in accordance with such plans and specifications. The lowest bid shall be deemed to be that which specifically states the lowest gross sum for which the entire work will be performed, including all the items specified in the estimate therefor.

4. Estimates may be amended.— If no proposal otherwise acceptable is made within the estimate accompanying the plans and specifications, the commission may cause the estimate to be amended. If the highway to be constructed or improved is a county highway the commission shall certify the amended estimate to the board of supervisors and the board shall take action thereon as in a case where plans, specifications and estimates are originally submitted to a board of supervisors. Upon the amendment of such estimate, and its approval by the board of supervisors in case of a county highway, the commission may proceed anew to obtain proposals and award the contract as provided in this section.

5. Rejection of proposals.— The commission may reject any or all proposals and may advertise for new proposals as above provided, if, in their opinion, the best interests of the state will thereby be promoted.

6. Form of contract.— The commission shall prescribe the form of contract and may include therein such matters as they may deem advantageous to the state. Such forms shall be uniform so far as may be.

7. Bond of contractor.— Each contractor, before entering into a contract for such construction or improvement, shall execute a bond in the form prescribed by the commission, with sufficient sureties, to be approved by the commission, conditioned that he will perform the work in accordance with the terms of the contract, and with the plans and specifications, and that he will commence and complete the work within the time prescribed in the contract. Such bond shall also provide against any direct or indirect damages that shall be suffered or claimed on account of such construction or improvement during the time thereof, and until the highway is accepted.

8. Payments on contract.— The contract may provide for partial payments to an amount not exceeding ninety per centum of the value of the work done, which shall be paid in the manner provided by this article when certified to by the commission. Ten per centum of the contract price shall be retained until the entire work has been completed and accepted.

9. Contingencies.— All contingencies arising during the prosecution of the work shall be provided for to the satisfaction of the commission and as may be agreed upon in the original or by a supplemental contract executed by the commission; the amount to be expended shall not exceed the original estimate, unless such estimate shall have been duly amended by the commission and, in the case of a county highway, submitted to the board of supervisors for its approval. If a supplemental contract be executed by the commission for the performance of work or furnishing of material not provided for in the original contract, the amount to be charged thereunder for any such work or material shall not exceed the rate for which similar work or material was agreed to be performed or furnished under the original bid upon which the contract was awarded. Such supplemental contract shall not be binding unless it be approved by the commission in case of a state highway and in case of a county highway, by the chairman of the board of supervisors and the district or county superintendent.

§ 131. **Award of contracts to board of supervisors or town board.** — A board of supervisors of a county, or a town board of a town, in which any portion of a county highway is situated, may present proposals and be awarded a contract for the construction or improvement of such highway, as provided in this article, for and on behalf of such county or town. If such contract be awarded to a board of supervisors or a town board such board shall, by resolution, designate some suitable person or persons to carry into effect, on behalf of the town, such contract, and transact all business in respect thereto as may be necessary. A member of the board of supervisors or town board at the time such contract was awarded or such designation was made, or a person who is a partner of, or a stockholder in the same corporation as that of such member, shall not be so designated. A member of the board of supervisors or town board at the time such designation was made, or a firm, corporation or association of which he is a member or has an interest, shall not be directly

or indirectly interested in any such contract nor shall such member, or such firm, corporation or association furnish materials or perform labor or services, either directly or indirectly, under or in connection with the performance of any of the work required in accordance with such contract, nor shall such member, firm or corporation or association, be paid for materials furnished or services rendered in respect to such contract. The clerk of the board of supervisors or the town clerk shall transmit a certified copy of the resolution designating the person or persons to carry into effect such contract to the commission prior to the awarding of a contract to the board of supervisors or town board. The person or persons so designated shall, before the contract is executed, give an undertaking to the county or town, with sureties to be approved by the commission and the board of supervisors or town board, for an amount equal to the amount of the bid presented by the county or town. Such undertaking shall be conditioned on the faithful performance of their duties in respect to such contract and for the proper accounting, safe-keeping and lawful disbursement of all moneys that may come into their hands thereunder. Such undertaking shall be filed in the office of the county or town clerk and a copy thereof shall be transmitted to the commission. The person or persons so designated shall thereupon be competent to receive all moneys payable under such contract under the provisions of this article, and they shall account therefor to the county or town. The board of supervisors or town board, after such contract is awarded, shall designate, by resolution, a banking corporation or a trust company wherein the moneys received under such contract shall be deposited. Such bank or trust company shall, upon the request of the board of supervisors or town board, make a statement of the money so deposited. The commission shall, by rules and regulations, prescribe the manner in which the moneys received under such contract shall be expended and the forms of accounts to be kept by the person or persons designated as above provided. Reports may be required by the commission from time to time from such person or persons.

§ 132. **Suspension of work under contract; completion by commission.**— If the division engineer shall determine that the work upon any contract for the construction or improvement of a state or county highway is not being performed according to the contract or for the best interests of the state, he shall so certify to

the commission and the commission may suspend or stop the work under the contract while it is in progress, and shall thereupon complete the work in such manner as will accord with the contract specifications, and be for the best interests of the state, or it may cancel the contract and readvertise and relet as provided in section one hundred and thirty, and any excess in the cost of completing the contract beyond the price for which it was originally awarded shall be charged to any paid by the contractor failing to perform the work. Every contract for the construction or improvement of a state or county highway shall reserve to the commission the right to suspend or cancel the contract as above provided, and to complete the work thereunder or readvertise and relet as the commission may determine.

§ 133. **Acceptance of state highway when completed.**—Upon the completion of a state highway or section thereof constructed or improved under a contract let as provided in this article, the division engineer together with the county or district superintendent shall inspect the same and if it be completed as provided in the contract, they shall thereupon report to the commission, who shall, if it approve, notify the contractor of that fact and the highway or section thereof so constructed or improved shall be deemed to have been accepted by the state.

§ 134. **Acceptance of county highway.**—Upon the completion of a county highway or section thereof, constructed or improved under a contract let as provided in this article, the commission shall inform the district or county superintendent and the board of supervisors of the county in which such highway or section thereof is located in writing, that it will accept the work on behalf of the state and county within twenty days from the date of such notice, unless protest shall be filed with him in writing by the district or county superintendent or by the chairman of the board of supervisors. In case a protest is filed the commission shall hear the same and if it is sustained it shall delay the acceptance of the highway or section thereof until it be properly completed. Upon the proper completion of such highway or section thereof and after filing the notice above given it shall be deemed to have been accepted by the board of supervisors of such county and thereafter it shall be maintained as provided in this chapter.

§ 135. **Entry upon adjacent lands for drainage purposes.**—Lands adjacent to a state or county highway may be entered upon and occupied for the purpose of opening or constructing a drain or ditch so as to properly drain such highway:

1. By a contractor, or any of his agents or employees, when directed by the commission, during the construction or improvement of such highway.

2. By the commission or its duly authorized officers, agents or employees, at any time, for the purpose of making surveys for such drain or ditch.

3. By the commission, or its duly authorized officers, agents or employees, or by a county, district or town superintendent, when directed by the commission, after the completion and acceptance of the highway for the purpose of opening, constructing or maintaining ditches or drains upon such lands, necessary for the proper maintenance of such highway.

§ 136. **Damages for entry.**— The commission may agree with the owner of lands entered upon and occupied as provided in the preceding section for the payment of damages caused by such entry, or if unable to so agree the right to enter and occupy such lands may be acquired and the damages therefor shall be ascertained as provided in the condemnation law. Such damages shall, in the case of a state highway, be paid out of moneys available for the construction or improvement of such highway, and in the case of a county highway shall be a county charge and paid in the same manner as other county charges.

§ 137. **State and county highways in villages.**— A state and county highway may be constructed through a village in the same manner as outside thereof, unless the street through which it runs has, in the opinion of the commission, been so improved or paved as to form a continuous and improved highway of sufficient permanence as not to warrant its reconstruction, in which case such highway shall be constructed or improved to the place where such paved or improved street begins. If it is desired to construct or improve any portion of a state or county highway within such village at a width greater than that provided for in the plans and specifications therefor, or if a modification of the plans and specifications is desired by which the cost thereof is increased, the board of trustees of such village shall petition the commission by resolution, to so modify such plans and specifications as to provide for such construction. The commission shall thereupon cause the plans, specifications and estimate for such highway to be modified so as to provide for such additional construction, and shall provide therefor in the contract. Upon the completion of such state or county highway within

the village in accordance with such modified plans and specifications the commission shall notify the board of trustees as provided in the case of a county highway. Such board may file a written protest against the acceptance of such work with the commission who shall examine in respect thereto, and if it is sustained the commission shall delay the acceptance of the highway within the village until it be properly completed. Upon the proper completion thereof and the notification as above provided, the commission shall certify to the board of trustees the cost of such additional construction, and such board shall pay the same out of moneys raised by tax or from the issue and sale of bonds as provided in the village law. The provisions of the general village law, special village charters and other general or special laws relative to the pavement or improvement of streets and the assessment and payment of the cost thereof shall apply, so far as may be, to such additional construction and the assessment and payment of the cost thereof.

§ 138. **Connecting highways in villages.**— The board of trustees of a village may, by resolution, petition the commission for the construction or improvement of a highway to connect streets or highways within the village, which have been paved or improved, with county highways which have been heretofore built under the provisions of chapter one hundred and fifteen of the laws of eighteen hundred and ninety-eight, and the acts amendatory thereof. If in the judgment of the commission public convenience requires the construction or improvement of such connecting highway, the commission shall cause plans, specifications and estimates to be prepared, and shall cause the same to be transmitted to the board of supervisors of the county wherein such highway is situated, with a written statement of their reason for providing for such construction or improvement. A copy of such statement shall be filed in the office of the county clerk of such county. The board of supervisors shall thereupon adopt a resolution providing for such construction or improvement as provided in this article. The payment of the cost of such construction or improvement shall be provided for in such resolution as in other cases, and such payment shall be made in the same manner. A certified copy of such resolution shall be filed in the office of the commission. The construction or improvement of such connecting highway shall then be taken up in the order and manner pro-

vided in this article for the construction or improvement of county highways. If it is desired to construct or improve any portion of such a connecting highway at a width greater than that provided for in the plans and specifications therefor, or if a modification of such plans and specifications is desired by which the cost thereof will be increased, the board of trustees of the village shall proceed as in the preceding section to secure such a modification of the plans and specifications as will provide for such desired construction. The provisions of the preceding section shall apply in like manner to the connecting highway to be constructed or improved as provided in this section.

§ 139. **Resolution to provide for raising money.**—The resolution of the board of supervisors providing for the construction or improvement of a county highway or section thereof shall either

1. Appropriate and make immediately available to the requisition of the commission an amount sufficient to pay the share of the cost of such construction or improvement which is to be borne by the county and town or towns within which such highway or section thereof is located; or

2. Request that the entire cost of the construction or improvement of such county highway or section thereof shall be paid in the first instance by the state and that the county and town or towns shall be charged annually with their share of the interest and sinking fund as provided in chapter four hundred and sixty-nine of the laws of nineteen hundred and six, as amended by chapter seven hundred and eighteen of the laws of nineteen hundred and seven.

§ 140. **Modifying method of payment.**—If a resolution has been heretofore adopted, or shall hereafter be adopted, by a board of supervisors, appropriating and making immediately available an amount sufficient to pay the share of the cost of the construction or improvement of a county highway to be borne by the county and the town or towns in which the highway is located, such board of supervisors may adopt a resolution requesting the state to pay the entire cost of the construction or improvement of such highway in the first instance and that the state charge the county and town or towns annually with their share of the interest and sinking fund, as provided in chapter four hundred and sixty-nine of the laws of nineteen hundred and six, and the acts amendatory thereof. The clerk of the board of supervisors

shall transmit certified copies of such resolution to the commission and the state comptroller. If such resolution shall have been received by the commission and the state comptroller, prior to the advertisement for bids for the construction or improvement of such county highway or section thereof, the entire cost of such construction or improvement shall be paid in the first instance by the state and the share of the interest and sinking fund shall be charged annually against the county and town or towns in which such highway is located in the same manner and with the same effect as though the resolution had originally requested such payment and charge. The adoption of a resolution modifying the method of payment of the share of the county and town or towns shall not affect or change the date of the filing of the original resolution providing for the construction or improvement of such highway nor alter in any way the order of construction determined by the date of the filing of the original resolution.

§ 141. **Division of cost of county highways; payments by county treasurer.**—Whenever the construction or improvement of a county highway or section thereof under a contract shall be completed and final payment therefor shall have been made the commission shall prepare a statement of the cost of such construction or improvement, including engineering expenses, inspection and all charges and expenses properly chargeable thereto, showing in detail the date of each payment, and the purpose and amount of such payment. Such payments shall be grouped as far as practicable by dates and the total thus obtained shall be deemed the cost of such construction or improvement, and a certified copy of said statement shall be filed by the commission in the office of the comptroller. If a county highway or section thereof so constructed or improved shall be situate in two or more towns or in two or more counties, the commission shall apportion such expense to such towns and counties according to the cost of such construction or improvement in each of such towns or counties. Such statement when audited and approved by the comptroller shall be filed in his office and shall be final, and a duplicate thereof shall be filed with the county treasurer of each county wherein the highway or section thereof has been improved. If the board of supervisors of any county shall have theretofore provided funds to pay two per centum of the cost of such county highway as thus determined, for each one thousand dollars of assessed valuation of real and personal property liable to taxation in said county for each

mile of public highway within such county to be ascertained and determined by dividing the total assessed valuation of taxable property in said county as equalized for state purposes by the total mileage of highways in said county, exclusive of the streets and highways within any incorporated city or village in said county, and if the board of supervisors of any county shall have theretofore provided funds to pay, on behalf of any town, one per centum of the cost of such improved highway as thus determined, for each one thousand dollars of assessed valuation of real or personal property liable to taxation in said town for each mile of public highway within said town to be ascertained and determined by adding to or deducting from the total assessed value of taxable property in said town as equalized for county purposes, the percentage of value, if any, added or deducted by the state board of equalization to equalize between counties for state purposes, and dividing the sum thus obtained by the total mileage of public highways in said town, exclusive of the streets and highways within any incorporated city or village in said town, but not exceeding thirty-five per centum of the cost for the county and fifteen per centum of the cost for the town or towns, as shown by such statement, it shall be the duty of the county treasurer to pay the amount thereof upon the requisition of the commission and thereafter the county and town shall be deemed to be fully discharged of its obligation to the state on account of the construction or improvement of such county highway, except the obligation to pay their proportionate amount of the state tax for the state's share of the cost of construction. At least ten days' notice shall be given by the commission to the county treasurer prior to the making of such a requisition. A copy of each contract providing for the construction or improvement of a county highway, and the plans and specifications therefor, together with copies of certificates showing the progress of the work, upon which requisitions are drawn, shall be filed with the county treasurer. The mileage of highways to be used in determining the amounts to be charged to a county or town under this section shall be the tables of mileage formerly prepared by the state engineer until the tables as provided in this chapter are filed.

§ 142. **County or town may borrow money.**— If there are not sufficient funds in the county treasury to pay the share of the cost of the construction or improvement of a county highway which is to be borne by the county and town or towns, as

appropriated and made immediately available by the resolution providing for such construction or improvement, the county treasurer is authorized and directed to borrow a sufficient sum to pay such share in anticipation of taxes to be collected therefor and to pledge the faith and credit of the county for the payment of the amount when due with interest. Thereafter it shall be the duty of the board of supervisors to provide for the assessment, levy and collection of said apportioned amounts respectively as county and town charges, and to direct the payment of the aggregate amount by the county treasurer in the manner and at the times prescribed by law for the payment of state taxes to the state treasurer.

Upon the petition of the town board of any town, the board of supervisors of the county may, by resolution, authorize the town to borrow a sufficient sum to pay the share of the cost of the construction or improvement of a county highway which is to be borne by the town and to issue and sell town bonds therefore. Such bonds shall be sold by the supervisor for not less than par and the proceeds thereof shall be paid into the county treasury to be applied in payment of the share of such cost which is to be borne by such town. The board of supervisors shall, from time to time, impose upon the taxable property of the town a tax sufficient to pay the principal and interest of such bonds as they shall become due.

§ 143. **Payments from state treasury.**—If the resolution of the board of supervisors providing for the construction or improvement of a county highway or section thereof request the payment by the state in the first instance of the entire cost of such construction or improvement, the clerk of the board of supervisors shall file certified copies of such resolution with the commission and the state comptroller. The entire cost of such construction or improvement shall thereupon be paid by the state treasurer upon the warrant of the comptroller drawn upon the requisition of the commission. The comptroller shall annually charge the county and town or towns in which such county highway is located with their share of the interest and sinking fund, as provided in chapter four hundred and sixty-nine of the laws of nineteen hundred and six and the acts amendatory thereof. It shall be the duty of the commission from time to time, whenever requested by the comptroller, to certify to the comptroller the ap-

portionment of the cost of construction or improvement of any such highway or section thereof, between the state, county and town.

§ 144. **Payment of cost of state highway.**— The entire expense of the construction or improvement of a state highway shall be paid by the state treasurer upon the warrant of the comptroller issued upon the requisition of the commission out of any specific appropriation made available for the construction or improvement of state highways.

§ 145. **Abolition of railroad grade crossings.**— The commission shall provide for and cause the abolition of railroad grade crossings on a state or county highway whenever practicable, in the manner provided by the railroad law. The portion of the cost of abolishing such grade crossings, which is payable under the railroad law by the state and town or village, shall be paid out of the funds available for the construction or improvement of such state or county highway as provided in this article.

§ 146. **Street surface railroads on highways.**—No street surface railroad shall be constructed upon any portion of a state or county highway which has been or may be improved under the provisions of this article, nor shall any person, firm or corporation enter upon or construct any works in or upon any such highway, except upon the approval of, and under such conditions and regulations as may be prescribed by the commission, notwithstanding any consent or franchise granted by the town superintendent or municipal authorities of any town. Any person, firm or corporation violating this section shall be liable to a fine of one thousand dollars for each day of such violation, to be recovered by the commission and paid to the state treasurer to the credit of the fund for the maintenance and repair of state and county highways, and may also be removed therefrom as a trespasser by the commission upon petition to the county court of the county or the supreme court of the state.

§ 147. **Where cost is assessable against abutting owners.**— If fifteen per centum of the cost of constructing or improving a highway has been or may be assessed upon abutting owners, as authorized by section ten of chapter one hundred and fifteen of the laws of eighteen hundred and ninety-eight, as the same existed prior to its repeal by chapter four hundred and sixty-eight of the laws of nineteen hundred and six, such highway shall be constructed or improved at the joint expense of the state, county

and town as provided herein, and the portion of the cost so assessable upon such owners shall be paid by the town in which such highway is located, as provided in this article.

§ 148. **Acquisition of lands for right of way and other purposes.** — If a state or county highway, proposed to be constructed or improved as provided in this article, shall deviate from the line of a highway already existing, the board of supervisors of the county where such highway is located, shall acquire land for the requisite right of way prior to the actual commencement of the work of construction. The board of supervisors may also acquire lands for the purpose of obtaining gravel, stone or other material, when required for the construction, improvement or maintenance of highways, or for spoil banks, together with a right of way to such spoil banks and to any bed, pit, quarry, or other place where such gravel, stone or other material may be located.

§ 149. **Purchase of lands.**—The board of supervisors may, by resolution, authorize its chairman, a member, or a committee to purchase the lands to be acquired for the purposes specified in the preceding section. But the amount to be paid under this section to a single owner shall not exceed the sum of two hundred dollars, unless approved by the county judge and county treasurer, and in no case shall such amount exceed the sum of one thousand dollars. The purchase price of such lands shall be a county charge, and shall be paid in the same manner as awards are paid in cases where the proceedings are taken as herein required.

§ 150. **Petition to acquire lands.**—If the board of supervisors is unable to acquire land by purchase as provided for in the last section, the board may present to the county court of the county or to the supreme court, at a special term thereof, to be held in the judicial department in which said county is located, a petition for the appointment of three commissioners of appraisal to ascertain and determine the compensation to be paid to the owners of the land to be acquired and to all persons interested therein. Such petition shall describe the land to be acquired with a reference to the map upon which the same is shown which shall be annexed to such petition. A copy of such map shall be filed in the office of the county clerk. Such petition shall be signed and verified in the name of the board of supervisors, by the chairman or a member thereof designated for that purpose by resolution. Notice of presentation of such petition to such court shall be

given by the petitioner by publishing such notice in two newspapers published in such county, once in each week for two weeks successively preceding the day of such presentation, and also by posting a copy of said notice in not less than three public places in each town in which property to be acquired is located, at least eight days preceding the day of such presentation.

§ 151. **Commissioners to be appointed.**— Upon such presentation, such court shall, after hearing any person owning or claiming an interest in the lands to be acquired who may appear, appoint three disinterested persons as commissioners. And in case a commissioner shall at any time decline to serve, or shall die, or for any cause become disqualified or disabled from serving as such, the said court, at a similar special term, may, upon similar notice, application and hearing, and upon such notice to the land owners as the court may prescribe, appoint another person, similarly qualified, to fill the vacancy caused thereby.

§152. **Duties of commissioners.**— The said commissioners shall take the oath of office prescribed by the constitution, which oath shall be filed in the office of the county clerk of the county. The commissioners shall, with all reasonable diligence, proceed to examine such highways and lands to be acquired and may enter upon such lands for such purpose. Said commissioners shall cause a notice to be published in two such newspapers as aforesaid, once each week for two weeks successively next preceding the day of meeting mentioned in such notice, that at a stated time and place within such county they will meet for the purpose of hearing the parties claiming an interest in the damages to be awarded for the lands to be taken for such highways. Said notice shall also state the fact that a map or maps showing the land to be acquired has been filed in the county clerk's office. At the time and place of said meeting and at any adjournment thereof which said commissioners shall publicly make, they shall hear the proofs and allegations of all interested parties. They may adjourn the proceedings before them from time to time, issue subpoenas or administer oaths in such proceedings; and shall keep minutes of their proceedings and reduce to writing all oral evidence given before them. They shall thereafter make and sign a report in writing, in which they shall assess, allow and state the amount of damages to be sustained by the owners of the several lots, pieces or parcels of land to be taken for the purposes aforesaid. Such report shall contain the names of the owners

of any parcel of land to be acquired as aforesaid, except that in case the commissioners are unable to ascertain the names of such owners, they may in place of the names of such undiscovered parties insert the words "unknown owners," in their report. The said commissioners shall file their said report, together with the minutes of their proceedings, in the office of county clerk of such county. After said report shall have been completed and filed as aforesaid, the commissioners shall, after publishing a notice in like manner as that provided in section one hundred and fifty-two, apply to the county court of the county or to the supreme court, at a special term thereof to be held in the judicial department in which said county is located, to have the said report confirmed. If no sufficient reason to the contrary shall appear, the court shall confirm said report. Otherwise it may refer the same back to the said commissioners for revision or correction; and after such revision or correction the same proceedings shall be taken as are hereinbefore provided for, and the commissioners shall in the same manner make renewed application for the confirmation of such report, and the court shall thereupon confirm or refer back the said report, and such proceedings shall be repeated until a report shall be presented which shall be confirmed by the said court.

§ 153. **County treasurer to pay awards.**—Within six months after the report of said commissioners shall be confirmed as aforesaid, the county treasurer of such county shall pay to the persons named therein the amounts awarded to them for damages with six per centum interest thereon from the day of the confirmation of said report. Such amounts with interest and the amounts paid in pursuance of this article shall be a county charge and shall be paid by the county treasurer, in case of purchase upon requisition of the chairman of the board of supervisors of said county, or by any member or committee thereof designated for that purpose by said board and in case of a petition for the acquisition of such lands, upon service of a certified copy of the order confirming such awards. In case there are unknown owners, to whom the award is made in said report, the said county treasurer shall deposit the amounts awarded to them with like interest in some trust company or bank in such manner as the said court shall in the order of confirmation direct, such amount to be paid out upon the application of said unknown owners when discovered. From the date of the confirmation of such report by the order

of the said court the title of all the lands therein designated shall vest in said county for the purposes of a highway forever.

§ 154. **Costs; commissioners' fees.**—In all cases of assessment of damages by commissioners appointed by the court, the costs thereof shall be a county charge in the first instance, and be paid by the county treasurer as hereinbefore provided, except when reassessment of damages shall be had on the application of the party for whom damages were assessed, and such damages shall not be increased on such reassessment, the costs shall be paid by the party applying for the reassessment, and when application shall be made by two or more persons for reassessment of damages all persons who may be liable for costs under this section shall be liable in proportion to the amount of damages respectively assessed to them by the first assessment, and may be recovered by action. Each commissioner appointed by the court as provided in this article for each full day necessarily employed as such, shall be entitled to the sum of six dollars and his necessary expenses. The amount of compensation to which such commissioners are entitled shall be determined by the court in which the proceeding is pending, upon verified accounts presented by such commissioners, stating in detail the number of hours necessarily employed in the discharge of their duties, and the nature of the services rendered. The audit and determination of the courts as to the amount justly due shall be final.

§ 155. **Land may be sold or leased; disposition of proceeds.**—Any lands acquired by purchase or condemnation, for the purpose of obtaining gravel, stone or other materials, for the construction or maintenance of highways improved or constructed as provided in this article, or required for spoil banks, may be sold or leased by the board of supervisors of any county, when no longer needed for any of such purposes. The proceeds thereof shall be paid into the county treasury and shall be retained therein as a separate fund available for the construction or maintenance of highways improved or constructed under this article.

§ 156. **Application of provisions of labor law.**—The provisions of section three of the labor law, as amended by chapter five hundred and six of the laws of nineteen hundred and six, which except from the provisions of that section labor performed in the construction, maintenance and repair of highways outside the limits of cities and villages, shall apply to the construction, improvement and maintenance of state and county highways as provided in this chapter.

§ 157. **Highways and bridges on Indian reservations.**— When any portion of a county highway designated for improvement or construction in a county, as provided in this article, is located on an Indian reservation, the entire cost of the improvement or construction of such portion shall be paid by the state in the same manner as the state's share of the cost of such county highway, out of any specific appropriation made available for the construction or improvement of county highways. The commission shall have exclusive supervision and control of all bridges constructed or to be constructed by the state on any Indian reservation, and may make and enforce such reasonable rules and regulations concerning their use, as it shall deem necessary.

ARTICLE VII.

MAINTENANCE OF STATE AND COUNTY HIGHWAYS.

Section 170. Commission to provide for maintenance and repair.
171. Appropriations by state; apportionment of moneys.
172. Cost to town for maintenance of state and county highways.
173. Disbursement of maintenance funds.
174. Reports of county treasurer.
175. Compensation of town superintendents.
176. Liability of state for damages.
177. Maintenance of state and county highways in villages.
178. State to share expense of maintaining certain county roads.
179. Sprinkling; removal of filth and refuse.

Section 170. **Commission to provide for maintenance and repair.** — The maintenance and repair of state and county highways, exclusive however of the cost of maintaining and repairing bridges having a span of five feet or over, shall be under the direct supervision and control of the commission and they shall be responsible therefor. The commission shall have the power

1. To adopt proper rules and regulations therefor and the work shall be performed by the town or the district or county superintendents as therein provided and in case the commission is unable to thus secure the proper performance of said work they

shall have the power to contract for any necessary repair and likewise to provide for the due supervision of said work.

2. To purchase materials for such maintenance and repair, and contract for the delivery thereof at convenient intervals along such highways.

3. To provide for a system of patrol of such highways, or adopt such other system as may seem expedient so that each section of such highways shall be under constant observation, and be effectively and economically preserved, maintained and repaired.

§ 171. **Appropriations by state; apportionment of moneys.**— There shall be annually appropriated for the maintenance and repair of state and county highways an amount sufficient to provide therefor, based upon the estimates prepared and submitted by the commission to the legislature as provided in section twenty-one of this chapter. Not less than ninety per centum of the amount so appropriated shall be apportioned by the commission each year among the counties and the several towns therein in accordance with the proportion which the amount to be apportioned bears to the total amount of such estimates. The comptroller, upon the requisition of the commission, shall draw his warrant upon the state treasurer in favor of the county treasurer of the county in which the state or county highways are located, for an amount which shall not be in excess of the total amount apportioned by the commission to all the towns in such county. The moneys so paid shall be deposited by the county treasurer to the credit of the fund for the maintenance of state and county highways in the several towns of the county. Not more than ten per centum of the amount so appropriated each year may be reserved by the commission for the repair or rebuilding of a state or county highway which shall at any time be damaged or destroyed by the elements or otherwise, which shall be paid by the state treasurer upon the warrant of the comptroller drawn upon the requisition of the commission issued when required for such purposes.

§ 172. **Cost to town for maintenance of state and county highways.**— Each town shall pay for the maintenance and repair of state and county highways each year the sum of fifty dollars for each mile or major fraction of a mile of the total mileage of state and county highways within the town. On or before the first day of November in each year the commission shall transmit to the

clerk of the board of supervisors of each county, and to the county clerk thereof, a statement specifying the number of miles of state and county highways in each town in such county and the amount which each of such towns is required to pay into the county treasury on account of the maintenance of state and county highways. The board of supervisors shall cause the amount to be paid by each town of the county to be assessed, levied and collected therein in the same manner as other town charges, and such amount when collected shall be paid into the county treasury, to the credit of the fund for the maintenance of state and county highways in the several towns of the county.

§ 173. **Disbursement of maintenance funds.**— The amount apportioned by the commission for the maintenance and repair of state and county highways in each town together with the amount paid by each town therefor shall be expended for the repair and maintenance of such highways in such town. The county treasurer shall pay out the moneys received by him as provided in this article upon the written order of the commission. Such order shall be issued upon vouchers duly presented to the commission in the form to be prescribed by them. The commission may adopt rules and regulations providing for the presentation and payment of accounts for maintenance and repair.

§ 174. **Reports of county treasurer.**— The county treasurer shall report to the commission monthly or oftener, if required by the commission, the amount received by him on account of the maintenance and repair of state and county highways in the several towns in his county and the expenditures made by him out of such moneys. The form and contents of such report shall be prescribed by the commission.

§ 175. **Compensation of town superintendents.**— If a town superintendent shall be directed by the commission to perform services in respect to the maintenance and repair of state and county highways within his town his compensation therefor shall be paid out of the moneys set apart as provided in this article for such maintenance and repair. Such compensation shall be fixed by the commission but shall in no case exceed the amount fixed by the town board as compensation for his services performed for the town under this chapter, and in rendering his monthly bill to the supervisor, and his annual bill to the town board, no charge shall be made against the town for an expense or per diem charge upon any date for which an audit shall have been allowed by

the state commission. And said state commission shall make proper rules and regulations to carry into effect this provision and to furnish to the town board prior to the annual audit day due information as to the dates, compensation and expenses allowed by them to said town superintendent from the state repair fund.

§ 176. **Liability of state for damages.**— The state shall not be liable for damages suffered by any person from defects in state and county highways, but the liability for such damages shall remain as now provided by law, notwithstanding the construction or improvement and maintenance of such highways by the state under this chapter.

§ 177. **Maintenance of state and county highways in villages.**— Any portion of a state or county highway constructed or improved within the limits of an incorporated village, as provided in this chapter, shall be maintained and kept in repair by the board of trustees at the expense of the village in accordance with the rules and regulations of the commission under the supervision and direction of the district or county superintendent.

§ 178. **State to share expense of maintaining certain county roads.**—Whenever any county has heretofore constructed, under a general or special law, other than this chapter, a county road or roads, without expense to the state, the state shall be liable to annually contribute toward the expense of maintaining such road or roads fifty per centum of the amount appropriated by such county for the maintenance of such road or roads during the preceding year, unless provision be otherwise made for such maintenance as provided in this section. The clerk of the board of supervisors of a county entitled to a contribution from the state toward the maintenance of its roads under this section shall annually, on or before the first day of January, transmit to the state comptroller a statement certified by him and signed and verified by the chairman of such board, stating the amount appropriated by the board of supervisors of such county for the maintenance of such county road or roads during the preceding year. The comptroller shall draw his warrant upon the state treasurer in favor of the treasurer of such county, for an amount equal to fifty per centum of the amount so appropriated. Such money shall be applicable to the repair and permanent improvement of such county road or roads, and shall be expended in the same manner as money appropriated by the county for such purpose.

The sum paid by the state to any county by virtue of this section shall not exceed, in any one year, one-tenth of one per centum of the taxable property of such county. The commission may at any time inspect such county roads and if they determine that they are of sufficient importance and are properly constructed, they shall make an order directing that such county roads become a part of the system of county highways in such county, and thereafter such roads shall be maintained as county highways in the manner provided in this article, and the state shall cease to contribute for the maintenance thereof as provided in this section. Such order shall be served upon the chairman of the board of supervisors and a certified copy thereof shall be filed in the office of the county clerk and one in the office of the state comptroller.

§ 179. **Sprinkling; removal of filth and refuse.**—Upon petition signed by a majority of the taxpayers owning property abutting upon an improved state or county highway and filed with the town clerk, the town board may set aside any section of such highway outside of a village and contract for the sprinkling of the roadbed with water and also contract for the removal of filth and refuse therefrom. No such contract shall be entered into unless previously approved by the county superintendent. The amount of any such contract so entered into shall be assessed upon the property abutting upon such section in the proportion which the frontage of each parcel thereof bears to the length of the section exclusive of intersecting highways. Such assessment shall be made, levied and collected in the same general manner, and at the same time and by the same officers as the town taxes of said town are assessed, levied and collected.

ARTICLE VIII.

LAYING OUT, ALTERING AND DISCONTINUING HIGHWAYS; PRIVATE ROADS.

Section 190. Survey for the laying out of a highway.
191. Highways by dedication.
192. Application.
193. Application for condemnation commissioners.
194. Appointment of condemnation commissioners and their duties.
195. Notice of meeting.

Section 196. Decision of condemnation commissioners in favor of application.
197. Damages in certain cases, how estimated.
198. Decision of condemnation commissioners denying application.
199. Motion to confirm, vacate or modify.
200. Limitations upon laying out highways.
201. Laying out highways through burying-grounds.
202. Costs, by whom paid.
203. Damages assessed and costs to be audited.
204. When officers of different towns disagree about highway.
205. Difference about improvements.
206. Highway in two or more towns.
207. Laying out, dividing and maintaining highway upon town line.
208. Final determination, how carried out.
209. Highways by use.
210. Fences to be removed.
211. Private road.
212. Jury to determine necessity and assess damages.
213. Copy application and notice delivered to applicant.
214. Copy and notice to be served.
215. List of jurors.
216. Names struck off.
217. Place of meeting.
218. Jury to determine and assess damages.
219. Their verdict.
220. Value of highway discontinued.
221. Papers to be recorded in town clerk's office.
222. Damages to be paid before opening the road.
223. Fees of officers.
224. Motion to confirm, vacate or modify.
225. Costs of new hearing.
226. For what purpose private road to be used.
227. Highways or roads along division lines.
228. Adjournments.
229. Widening roads, petition.
230. Powers and duties of commissioners.
231. Notice of decision to supervisors.

Section 232. Widening, how constructed.
233. Actions to compel widening, how affected by petition.
234. Highways abandoned.
235. Highways in lands acquired by the United States, for fortification purposes, deemed abandoned.
236. Discontinuance of highway.
237. Description to be recorded.
238. Damages caused by discontinuance.
239. Papers, where filed.
240. Costs of motion.

§ 190. **Survey for the laying out of a highway.**— Whenever the town superintendent shall lay out any highway, either upon application to him or otherwise, he shall notify the district or county superintendent, whose duty it shall be to either make a survey, or cause the same to be made, and the town superintendent shall incorporate the survey in an order to be signed by him, and to be filed and recorded in the office of the town clerk, who shall note the time of recording the same.

§ 191. **Highways by dedication.**— Whenever land is dedicated to a town for highway purposes therein, the town superintendent may with the consent of the town board, either with or without a written application therefor, and without expense to the town, make an order laying out such highway, upon filing and recording in the town clerk's office with such order a release of the land from the owner thereof. A highway so laid out must not be less than two rods in width. Section two hundred does not apply to a highway by dedication. Such town superintendent may also, upon written application and with the written consent of the town board, make an order laying out or altering a highway, or discontinuing a highway, which has become useless since it was laid out, upon filing and recording in the town clerk's office, with such application, consent and order, a release from all damages from the owners of lands taken or affected thereby, when the consideration for such release, as agreed upon between such town superintendent, and owner or owners, shall not in any one case, from any one claimant, exceed one hundred dollars, and from all claimants five hundred dollars. An order of the town superintendent, as herein provided, shall be final.

§ 192. **Application.**— Any person or corporation assessable for highway taxes may make written application to the town superintendent of the town in which he or it shall reside, or is assessable, to alter or discontinue a highway, or to lay out a new highway.

§ 193. **Application for condemnation commissioners.**— Whenever the land is not dedicated to the town for highway purposes, and not released as herein provided, the applicant shall, within thirty days after presenting the application to the town superintendent, and after at least five days' notice to said town superintendent of the time and place of the application to the county court, in this section provided for, by verified petition showing the applicant's right to so present the same, and that such application has been in good faith presented, and if the county judge require on such notice to such parties interested as he shall direct, apply to the county court of the county where such highway shall be, for the appointment of three commissioners to determine upon the necessity of such highway proposed to be laid out or altered, or to the uselessness of the highway proposed to be discontinued and to assess the damages by reason of laying out, opening, altering or discontinuing such highway. Such application shall be accompanied by the written undertaking of the applicant executed by one or more sureties, approved by the county judge, to the effect that if the commissioners appointed determine that the proposed highway or alteration is not necessary or that the highway proposed to be discontinued is not useless, the sureties will pay to the commissioners their compensation at the rate of four dollars for each day necessarily spent and all costs and expenses necessarily incurred in the performance of their duties, which amount shall not exceed the sum of one hundred dollars.

§ 194. **Appointment of condemnation commissioners, and their duties.**— Upon the presentation of such petition, the county court must appoint three disinterested freeholders, who shall not be named by any person interested in the proceedings, who shall be residents of the county, but not of the town wherein the highway is located, and who shall not be related by consanguinity or affinity within the sixth degree to the applicant or to any person interested in the proceeding or to the owner of any lands to be taken or affected by the laying out, alteration or discontinuance of a highway, as commissioners to determine the questions mentioned in the last section. They shall take the constitutional oath of office, and appoint a time and place at which they shall all meet to hear the town

superintendent and supervisor of the town where such highway is situated, and others interested therein. They shall personally examine the highway described in the application, hear any reasons that may be offered for or against the laying out, altering or discontinuing of the highway, and assess all damages by reason thereof. They may adjourn the proceedings before them from time to time, issue subpœnas and administer oaths in such proceedings, and they shall keep minutes of their proceedings, and shall reduce to writing all oral evidence given before them upon the subject of the assessment of damages. They shall make duplicate certificates of their decision, and shall file one in the town clerk's office of the town, and the other, with such minutes and evidence, in the county clerk's office of the county in which the highway or proposed highway is located.

§ 195. **Notice of meeting.**— The applicant shall cause, at least eight days previous, written or printed notice to be posted up in not less than three public places in the town specifying, as near as may be, the highway proposed to be laid out, altered or discontinued, the tracts or parcels of land through which it runs, and the time and place of the meeting of the commissioners appointed by the county court to examine the highway as mentioned in the last section. Such notice shall also, in like time, be personally served on the owner and occupant of the land, if they reside in the town, or by leaving the same at their residence with a person of mature age; if they do not reside in the same town, or service cannot be made, a copy of such notice shall be mailed to such owner and occupant, if their post-office address is known to the applicant or ascertainable by him upon reasonable inquiry.

§ 196. **Decision of condemnation commissioners in favor of application.**— If a majority of the commissioners appointed by the county court shall determine that the highway or alteration applied for is necessary, or that the highway proposed to be discontinued is useless, they shall assess all damages which may be required to be assessed by reason thereof and make duplicate certificates to that effect. If the petition is for the laying out of a highway, the commissioners shall also include in their certificates what the probable cost would be of laying out and completing the proposed highway, in their opinion, based upon the evidence given before them on the hearings.

§ 197. **Damages in certain cases; how estimated.**— The owner of lands within the bounds of a highway discontinued may enclose the same and have the exclusive use thereof, and the benefits resulting therefrom may be deducted in the assessment of damages caused by the laying out of a highway through his other lands in place of the discontinued highway.

§ 198. **Decision of condemnation commissioners denying application.**— If a majority of the commissioners appointed by the county court shall determine that the proposed highway or alteration is not necessary, or that the highway proposed to be discontinued is not useless, they shall make duplicate certificates to that effect. The costs and expenses necessarily incurred by such commissioners in the proceedings shall be indorsed upon such duplicate certificates, and upon a confirmation of such decision and of the amount of such costs and expenses by the county court, such costs and expenses not exceeding one hundred dollars shall be payable by the applicants.

§ 199. **Motion to confirm, vacate or modify.**— Within thirty days after the decision of the commissioners shall have been filed in the town clerk's office, any person interested in the proceeding may apply to the court appointing the commissioners for an order confirming, vacating or modifying their decision, and such court may confirm, vacate or modify such decision. If the decision be vacated, the court may order another hearing of the matter before the same or other commissioners. If no such motion is made, the decision of the commissioners shall be deemed final. Such motion shall be brought on upon the service of papers upon adverse parties in the proceeding, according to the usual practice of the court in actions and special proceedings pending therein; and the decision of the county court shall be final, excepting that a new hearing may be ordered as herein provided, and excepting that any such decision may be reviewed on appeal upon questions affecting jurisdiction, and rulings and exceptions made and taken upon the hearing before the commissioners. If the final decision be adverse to the applicant, no other application for laying out, altering or discontinuing the same highway shall be made within two years.

§ 200. **Limitations upon laying out highways.**— No highways shall be laid out less than three rods in width, nor through an orchard of the growth of four years or more, or any garden cultivated as such for four years or more, or grape vineyards of one or

more years' growth, and used in good faith for vineyard purposes, or buildings or any fixtures or erections for the purposes of trade or manufactures, or any yard or enclosure necessary to the use and enjoyment thereof, without the consent of the owner or owners thereof, unless so ordered by the county court of the county in which the proposed highway is situated; such order shall be made on the certificate of the town superintendent of the town or towns in which the proposed highway is situated, showing that the public interest will be greatly promoted by the laying out and opening of such highway, and that commissioners appointed by the court have certified that it is necessary; a copy of the certificate with eight days' notice of the time and place of the hearing before the county court shall be served on the owners of the land, or if they are not residents of the county upon the occupants; the county court upon such certificates, and the proofs and other proceedings therein, may order the highway to be laid out and opened, if it deems it necessary and proper. The town superintendent shall then present the order of the county court, with the certificate and proofs upon which it was granted, certified by such court, to the appellate division of the supreme court in the judicial department in which the land is situated upon the usual notice of motion, served upon the owner or occupant, or the attorney who appeared for them in the county court. If such appellate division of the supreme court shall confirm the order of the county court, the town superintendent shall then lay out and open such highway as in other cases. The provisions of this section shall not apply to vineyards planted or to buildings, fixtures, erections, yards or enclosures, made or placed on such land after an application for the laying out and opening the highway shall have been made. In case the highway to be laid out shall constitute an extension or continuation of a public highway already in use, and shall not, as to such new portion, exceed half a mile in length, the town superintendent may lay out such extension or continuation of a width of not less than three rods, provided, however, that it be not less than the widest part of the highway of which it is an extension or continuation. In such case the town superintendent shall specify in his certificate the precise width of the new portion of such highway, and shall certify that such width is as great at least as the widest part of the highway of which it is a continuation or extension. No highway shall be laid out which shall be identical or substantially so with a highway previously discontinued or

abandoned for public purposes within seven years of such discontinuance or abandonment, in counties adjoining cities with upward of one million inhabitants.

§ 201. **Laying out highways through burying-grounds.**— No private road or highway shall be laid out or constructed upon or through any burying-ground, unless the remains therein contained are first carefully removed, and properly reinterred in some other burying-ground, at the expense of the persons desiring such road or highway, and pursuant to an order of the county court of the county in which the same is situated, obtained upon notice to such persons as the court may direct.

§ 202. **Costs; by whom paid.**—In all cases of assessments of damages by commissioners appointed by the county court, the costs thereof shall be paid by the town thereof, except that when reassessment of damages shall be had on the application of the party for whom the damages were assessed, and such damages shall not be increased on such reassessment, the costs shall be paid by the party applying for the reassessment; and when application shall be made by two or more persons for the reassessment of damages, all persons who may be liable for costs under this section shall be liable in proportion to the amount of damages respectively assessed to the first assessment, and may be recovered by action in favor of any person entitled to the same. Each commissioner appointed by the court, for each day necessarily employed as such, shall be entitled to four dollars and his necessary expenses.

§ 203. **Damages assessed, and costs to be audited.**—All damages to be agreed upon, or which may be finally assessed, and costs against the town, as herein provided, shall be laid before the board of town auditors, or in towns not having a board of town auditors, before the town board, to be audited with the charges of the commissioners, justices, surveyors or other persons or officers employed in making the assessment, and for whose services the town shall be liable, and the amount shall be placed upon the town abstract and levied and collected in the town in which the highway is situated, and the money so collected shall be paid to the supervisor of such town, who shall pay to the owner the sum assessed to him, and appropriate the residue to satisfy the charges aforesaid.

§ 204. **When officers of different towns disagree about highway.** — When the town superintendent of any town or officers of any village or city having the powers of town superintendents shall differ with the town superintendent or superintendents of any other

town or with the officers of such a village or city having the powers of town superintendents in the same county, relating to the laying out of a new highway or altering an old highway, extending into both towns, or a town and a village or city, or upon the boundary line between such towns or such town and a village or city, or when a town superintendent of a town in one county shall differ with the town superintendent of a town or the officers of a village or city having the powers of town superintendents in another county, relating to the laying out of a new highway, or the altering of an old highway, which shall extend into both counties, or be upon the boundary line between such counties, the town superintendents of both towns or the officers of the village or city having such powers shall meet on five days' written notice, specifying the time and place, within some one of such towns, villages or cities, given by either of such town superintendents, or officers having powers of town superintendents, to make their determination in writing, upon the subject of their differences. If they cannot agree, they or either of them may certify the fact of their disagreement to the county court of that county, if the proposed highway is all in one county, or if in different counties, or if the county judge is disqualified or unable to act, to the supreme court; such court shall thereupon appoint three commissioners, freeholders of the county, not residents of the same town, village or city, where the highway is located; or if between two counties, then freeholders of another county, who shall take the constitutional oath of office, and upon due notice to all persons interested view the proposed highway, or proposed alteration of a highway, administer all necessary oaths, and take such evidence as they deem proper, and shall decide all questions that shall arise on the hearing, as to the laying out or altering of such highway, its location, width, grade and character of roadbed, or any point that may arise relating thereto; and if they decide to open or alter any highway, they shall ascertain and appraise the damages, if any, to the individual owners and occupants of the land through which such new or altered highway is proposed to pass, and shall report such evidence and decision to such court, with their assessment of damages, if any, with all convenient speed. On the coming in of such report, the court may, by order, confirm, modify or set aside the report in whole or in part and may order a new appraisal by the same or by other commissioners, and shall decide all questions that may arise before it. And all orders and decisions in the matter shall be filed in the

county clerk's office of each county where the highway is located, and shall be duly recorded therein. This section shall not be so construed as to compel any town or towns to construct, repair or maintain a bridge upon a boundary between towns, where previous to May seventh, nineteen hundred and three, an application had been made to any court, to compel the construction, repair and maintenance of a bridge upon such a boundary line, and such application had been denied.

§ 205. **Difference about improvements.**— When the town superintendent or the officers of a village or city having the powers of town superintendents therein, shall desire to make a new or altered highway extending beyond the bounds of such town, village or city, a better highway than is usually made for a common highway, with a special grade or roadbed, drainage or improved plan, and are willing to bear the whole or a part of the expense thereof beyond such bounds, but cannot agree in regard to the same, upon written application of either of the superintendents or officers, and notice to all parties interested, such court shall make an equitable adjustment of the matters, and may direct that in consideration of the payment of such portion of the additional expense by the town, village or city that desires the improved and better highway, as shall be equitable, its officers, contractors, servants and agents may go into such town, village or city, and make the grade and roadbed, and do whatever may be necessary and proper for the completion of such better highway, advancing the money to do it; the amount of damages to each owner or occupant shall be ascertained and determined by commissioners, who shall be appointed, and whose proceedings shall be conducted in the manner provided by the last preceding section; and upon the coming in of their report of damages, and of the expenses paid, such court shall, on notice to all parties interested, direct that the amount of damages assessed each owner or occupant, if any, and all such expenses be paid by each, any or all of such towns, villages or cities as shall be just and equitable, and the damages and expenses assessed and allowed, as in this and the last preceding sections, shall be paid and collected as if fixed by the town superintendents of the towns, or the officers of such villages or cities having the powers of such superintendents. Every commissioner appointed as herein provided shall be paid six dollars for each day actually and necessarily employed in such service and necessary expenses.

§ 206. **Highway in two or more towns.**— When application is made to lay out, alter or discontinue a highway located in two or more towns, all notices or proceedings required to be served upon the town superintendents shall be served upon the town superintendent of each town; and the commissioners appointed by the court shall determine the amount of damages to be paid by each town, and when the towns are in different counties, the application for the appointment of commissioners shall be made to a special term of the supreme court held in the district where the highway or some part of it is located; and the same proceedings shall thereafter be had in the supreme court of such district as are authorized by this chapter to be had in the county court.

§ 207. **Laying out, dividing and maintaining highway upon town line.**—An application to lay out a highway upon the line between two or more towns shall be made to the town superintendents of each town, who shall act together in the matter; and, upon laying out any such highway, the expense of opening, working and keeping the same in repair shall be borne equally by such towns. The town superintendents shall cause a map and survey of the highway to be recorded in the office of the town clerk in each of the respective towns. If such highway be upon a line between one or more towns and a city or incorporated village, such application shall also be made to the officers of such city or village having the powers of the town superintendents and such officers may agree with the town superintendents of such towns as to division of such expense. Whenever such officers shall disagree, the question shall be submitted to the district or county superintendent or superintendents representing the county or counties, district or districts in which such highway is located and their decision shall be final when approved by the state commission. All highways heretofore laid out upon the line between any two towns or between a town and a city or an incorporated village shall be divided and alloted or redivided and reallotted, recorded and kept in repair in the manner above directed; and all bridges upon such highways shall be built and maintained jointly by the towns whether wholly located within one of them or otherwise.

§ 208. **Final determination, how carried out.**— The final determination of commissioners appointed by any court, relating to laying out, altering or discontinuing a highway, and all orders and other papers filed or entered in the proceedings, or certified

copies thereof from the court where such determination, order and papers are filed and entered, shall be forthwith filed and recorded in the town clerk's office of the town where the highway is located; and every such decision shall be carried out by the town superintendent of the town, the same as if they had made an order to that effect.

§ 209. **Highways by use.**— All lands which shall have been used by the public as a highway for the period of twenty years or more, shall be a highway, with the same force and effect as if it had been duly laid out and recorded as a highway, and the town superintendent shall open all such highways to the width of at least two rods.

§ 210. **Fences to be removed.**— Whenever a highway shall have been laid out through any inclosed, cultivated or improved lands, in conformity to the provisions of this chapter, the town superintendent shall give to the owner or occupant of the land through which such highway shall have been laid, sixty days' notice in writing to remove his fences; if such owner shall not remove his fences within sixty days, the town superintendent shall cause them to be removed, and shall direct the highway to be opened and worked.

§ 211. **Private road.**—An application for a private road shall be made in writing to the town superintendent of the town in which it is to be located, specifying its width and location, courses and distances, and the names of the owners and occupants of the land through which it is proposed to be laid out.

§ 212. **Jury to determine necessity and assess damages.**— The town superintendent to whom the application shall be made shall appoint as early a day as the convenience of the parties interested will allow, when, at a place designated in the town, a jury will be selected for the purpose of determining upon the necessity of such road, and to assess the damages by reason of the opening thereof.

§ 213. **Copy application and notice delivered to applicant.**— Such town superintendent shall deliver to the applicant a copy of the application, to which shall be added a notice of the time and place appointed for the selection of the jury, addressed to the owners and occupants of the land.

§ 214. **Copy and notice to be served.**— The applicant on receiving the copy and notice shall, on the same day, or the next day thereafter, excluding Sunday and holidays, cause such copy

and notice to be served upon the persons to whom it is addressed, by delivering to each of them who reside in the same town a copy thereof, or in case of his absence, by leaving the same at his residence and upon such as reside elsewhere, by depositing in the postoffice a copy thereof to each, properly enclosed in an envelope, addressed to them respectively at their postoffice address, and paying the postage thereon, or, in case of infant owners, by like service upon their parent or guardian.

§ 215. **List of jurors.**— At such time and place, on due proof of the service of the notice, the town superintendent shall present a list of the names of thirty-six resident freeholders of the town, in no wise of kin to the applicant, owner or occupant, or either of them, and not interested in such lands.

§ 216. **Names struck off.**— The owners or occupants of the land may strike from the list not more than twelve names, and the applicant a like number; and of the number which remains, the twelve names standing first on the list shall be the jury.

§ 217. **Place of meeting.**—The town superintendent shall then appoint some convenient time and place for the jury to meet, and shall summon them accordingly.

§ 218. **Jury to determine and assess damages.**—The town superintendent and all the persons named and summoned on such jury, shall meet at the time and place appointed; but if one or more of the twelve jurors shall not appear, the town superintendent shall summon so many qualified to serve as such jurors as will be sufficient to make the number present twelve to forthwith appear and act as such; and when twelve shall have so appeared, they shall constitute the jury and shall be sworn well and truly to determine as to the necessity of the road, and to assess the damages by reason of the opening thereof.

§ 219. **Their verdict.**— The jury shall view the premises, hear the allegations of the parties, and such witnesses as they may produce, and if they shall determine that the proposed road is necessary, they shall assess the damages to the person or persons through whose land it is to pass, and deliver their verdict in writing to the town superintendent.

§ 220. **Value of highway discontinued.**— If the necessity of such private road has been occasioned by the alteration or discontinuance of a public highway running through the lands belonging to a person through whose lands the private road is proposed to be opened, the jury shall take into consideration the value of the highway so discontinued, and the benefit resulting

to the person by reason of such discontinuance, and shall deduct the same from the damages assessed for the opening and laying out of such private road.

§ 221. **Papers to be recorded in the town clerk's office.**— The town superintendent shall annex to such verdict the application, and their certificate that the road is laid out, and the same shall be filed and recorded in the town clerk's office.

§ 222. **Damages to be paid before opening the road.**— The damages assessed by the jury shall be paid by the party for whose benefit the road is laid out, before the road is opened or used; but if the jury shall certify that the necessity of such private road was occasioned by the alteration or discontinuance of a public highway, such damages shall be paid by the town and refunded to the applicant.

§ 223. **Fees of officers.**— Every juror, in proceedings for a private road, shall be entitled to receive for his service one dollar and fifty cents; and town superintendents their per diem compensation to be paid by the applicant.

§ 224. **Motion to confirm, vacate or modify.**— Within thirty days after the decision of the jury shall have been filed in the town clerk's office, the owner or occupant may apply to the county court of the county wherein such private road is situated, for an order confirming, vacating or modifying their decision; and such court may confirm, vacate or modify such decision as it shall deem just and legal. If the decision is vacated, the court may order another hearing of the matter before another jury, and remit the proceedings to the town superintendent of the same town for that purpose. If no such motion is made, the decision of the jury shall be deemed final. The motion shall be brought on, upon the service of papers on the adverse party in the proceeding, according to the usual practice of the court in actions and special proceedings pending therein, and the decision of the county court shall be final, except that a new hearing may be had, as herein provided. If the final decision shall be adverse to the applicant, no other application for the same road shall be made within two years.

§ 225. **Costs of new hearing.**— If upon a new hearing, the damages assessed are increased, the applicant shall pay the costs and expenses thereof, otherwise the owner shall pay the same.

§ 226. **For what purpose private road may be used.**— Every such private road, when so laid out, shall be for the use of such appli-

cant, his heirs and assigns; but not to be converted to any other use or purpose than that of a road; nor shall the occupant or owner of the land through which said road shall be laid out be permitted to use the same as a road, unless he shall have signified such intention to the jury who assessed the damages for laying out such road, and before such damages were assessed.

§ 227. **Highways or roads along division lines.**— Whenever a highway or private road shall be laid along the division line between lands of two or more persons, and wholly upon one side of the line, and the land upon both sides is cultivated or improved, the persons owning or occupying the lands adjoining such highway or road shall be paid for building and maintaining such additional fence as they may be required to build or maintain, by reason of the laying out and opening such highway or road; which damages shall be ascertained and determined in the same manner that other damages are ascertained and determined in the laying out of highways or private roads.

§ 228. **Adjournments.**— If any accident shall prevent any of the proceedings required by this chapter relating to the laying out, altering or discontinuing of a highway, or the laying out of a private road, to be done on the day assigned, the proceedings may be adjourned to some other day, and the town superintendent shall publicly announce such adjournment.

§ 229. **Widening roads; petition.**— When any part of a highway in any town of this state, not in an incorporated village or city, running between two or more villages or cities, has, because of the wearing away by a river or stream or any other natural cause, become narrower than the width required by statute, and is dangerous to the users of such highway, twelve or more resident taxpayers of such town may present a petition to the county court of the county within which such town is situated. The petition shall describe the part of the highway proposed to be widened and state that such highway has become lessened in width by the action of a river or stream or other cause, that it is dangerous to the traveling public, that the widening and improvement of such highway is necessary for the public convenience and welfare, that the highway is an important leading road between two or more cities or villages, that the cost of such widening and improvement would exceed the sum of two thousand five hundred dollars and would be too burdensome on the town or towns otherwise liable therefor. Such petition shall be verified by at least three of the petitioners.

On receipt of the petition the county court shall forthwith appoint three commissioners who shall not be named by any person interested in the proceedings and who shall be taxpayers of such county, but who shall not reside in the town or towns in which the highway, proposed to be widened and improved, is situated.

§ 230. **Powers and duties of commissioners.**— The commissioners shall take the constitutional oath of office and appoint a time and place for a meeting to hear all persons interested in the proposed widening of the highway. They shall personally examine the part of the highway proposed to be widened, hear any reasons for or against such widening and ascertain the probable cost of the work. They shall have power to issue subpœnas, administer oaths and examine witnesses; they shall keep the minutes of their proceedings and reduce to writing all oral evidence given before them. They shall make duplicate certificates of their decision, filing one in the town clerk's office of the town in which the said highway is located, and the other, with such minutes and evidence, in the county clerk's office of the county where the highway is located. Such commissioners shall have the same power as to the assessment of damages caused by the widening of such highway as commissioners appointed under this article for the discontinuance, alteration or laying out of a highway, and as to such assessment the same proceeding may be had for the confirmation, vacating or modifying of such decision, as provided in and by this article. The commissioners shall receive a compensation of five dollars for each day necessarily spent in the performance of their duties under this section, and the amount so paid to the said commissioners shall be a charge upon the town or towns in which the highway, proposed to be widened as aforesaid, is located.

§ 231. **Notice of decision to supervisors.**— If a majority of the commissioners shall determine that the proposed widening of the highway is necessary and that the cost thereof would be too burdensome for the town, exceeding in probable cost two thousand five hundred dollars, they shall notify the board of supervisors of the county of such decision. The board of supervisors shall thereupon cause one-half of the amount of the estimated cost to be raised by the county and paid to the supervisor of the town or towns in which that part of the highway proposed to be widened as aforesaid is located, and said supervisor shall apply the sum so received by him towards the payment of the cost of such widening. The balance of the expense shall be raised in the manner

provided by law, by the town or towns in which that part of the highway proposed to be widened as aforesaid is located.

§ 232. **Widening, how constructed.**— The town superintendent shall construct such widening of the highway according to plans and specifications adopted by the district or county superintendent and approved by the town board of his town. The bills and expenses incurred in such work shall be audited by the town board and paid by the supervisor upon written order of the town superintendent, after the same shall have been approved by the town board, out of moneys raised for such purpose as provided in the preceding section.

§ 233. **Actions to compel widening; how affected by petition.**— In case an action might lie in any court of this state against the town superintendent of any town or towns to compel such superintendent to widen a part of a highway, the width of which has become less than that required by statute, or in case an action has been brought against such superintendent to compel him to widen a part of a highway, the width of which has become less than that required by statute, the presentation of a verified petition to the county court as provided for in section two hundred and twenty-nine shall prevent the commencing of any such action as aforesaid and cause such an action already commenced, to cease, and shall be a bar to a recovery on the part of the plaintiff of a judgment against such superintendent in any such action instituted or prosecuted to judgment after the passage of this chapter.

§ 234. **Highways abandoned.**— Every highway that shall not have been opened and worked within six years from the time it shall have been dedicated to the use of the public, or laid out, shall cease to be a highway; but the period during which any action or proceeding shall have been, or shall be pending in regard to any such highway, shall form no part of such six years; and every highway that shall not have been traveled or used as a highway for six years, shall cease to be a highway, and every public right of way that shall not have been used for said periods shall be deemed abandoned as a right of way. The town superintendents shall file, and cause to be recorded in the town clerk's office of the town, a written description, signed by them, of each highway and public right of way so abandoned, and the same shall thereupon be discontinued. There may also be a qualified abandonment of a highway under the following conditions and for the following purposes, to wit: Where it appears to the town

superintendents, at any time, that a highway has not become wholly disused as aforesaid, but that it has not for two years next previous thereto, been usually traveled along the greater part thereof, by more than two vehicles daily, in addition to pedestrians and persons on horseback, they shall file and cause to be recorded in the town clerk's office a certificate containing a description of that portion of the highway partly disused as aforesaid and declaring a qualified abandonment thereof. The effect of such qualified abandonment, with respect to the portion of said highway described in the certificate, shall be as follows: It shall no longer be worked at public expense; it shall not cease to be a highway for purposes of the public easement, by reason of such suspension of work thereon; no person shall impair its use as a highway nor obstruct it, except as hereinafter provided, but no person shall be required to keep any part of it in repair; wherever an owner or lessee of adjoining lands has the right to possession of other lands wholly or partly on the directly opposite side of the highway therefrom, he may construct and maintain across said highway a fence at each end of the area of highway which adjoins both of said opposite pieces of land, provided that each said cross-fence must have a gate in the middle thereof at least ten feet in length, which gate must at all times be kept unlocked and supplied with a sufficient hasp or latch for keeping the same closed; all persons owning or using opposite lands, connected by such gates and fences, may use the portion of highway thus inclosed for pasturage; any traveler or other person who intentionally, or by wilful neglect, leaves such gate unlatched, shall be guilty of a misdemeanor, and the fact of leaving it unlatched shall be prima facie evidence of such intent or wilful neglect. Excepting as herein abrogated, all other general laws relating to highways shall apply to such partially abandoned highway.

§ 235. **Highways in lands acquired by the United States for fortification purposes deemed abandoned.**—When land sought to be acquired by the United States of America for the purpose of fortifications includes a highway or portion thereof, the condemnation proceedings may include such highways or portion thereof, and the people of the state of New York, any municipality, county or other party claiming an interest therein may be made a party defendant in such proceeding, and the interest of the state, county, municipality or other claimant be determined, and the award made therefor. Forthwith upon the ac-

quisition by the United States of America of land which includes a highway or portion thereof, there shall be filed in the office of the town clerk of the town, and also in the office of the county clerk of the county, in which such land is located, certified copies of the record or transfer to the United States of such land, together with a map of such land, on which map such highway or portion thereof shall be indicated by metes and bounds, and thereupon such highway or portion thereof shall be deemed discontinued and abandoned for highway purposes, and if proceedings have been taken, pursuant to article six of this chapter for the improvement of such highway by state aid, all such proceedings, together with any appropriation made for the improvement of such highway or portion thereof, as indicated on such map, shall be deemed revoked, vacated and set aside.

§ 236. **Discontinuance of highway.**— Whenever the town superintendent of any town, in which during the past ten years there has been expended the sum of three hundred thousand dollars, or more, for the purpose of macadamizing the highways of such town, shall determine that any portion of any highway or street, not within the limits of an incorporated village, which is the terminus of such street or highway, is unnecessary for highway purposes, and said town superintendent may, by an order to be duly entered in the town clerk's office, direct such highway to be discontinued and abandoned for public purposes. Provided, however, that no portion of such highway to be discontinued shall be greater than one thousand feet of the terminus thereof and that the owners of the land on both sides of such highway or street, for the distance it is proposed to discontinue the same, shall, by written petition to such town superintendent have requested the discontinuance thereof.

§ 237. **Description to be recorded.**— Immediately upon making and entering the order mentioned in section two hundred and thirty-six of this chapter, the said town superintendent shall cause a written description of that portion of the street or highway ordered to be discontinued to be filed and recorded in the office of the town clerk of the town in which the said street or highway is located, and when the same is duly recorded the said portion of the said street or highway shall thereupon be and become duly abandoned and discontinued for highway purposes.

§ 238. **Damages caused by discontinuance.**— Any person or corporation interested as owner or otherwise in any lands and claim-

ing any loss or damage, legal or equitable, by reason of the discontinuance, abandonment or closing of any street or highway, not within the limits of an incorporated village, under or pursuant to the provisions of the last two sections, may, upon ten days' written notice to the town superintendent of the town in which such lands are situated apply to the supreme court or to the county court of the county within which such lands are situated for the appointment of commissioners to estimate and determine such loss and damage, whereupon the court shall appoint three disinterested commissioners of appraisal to estimate and determine such damage, and the amount of compensation to be paid by said town therefor, who shall make their report thereupon to such court, and which report when finally confirmed shall be final and conclusive in respect thereto, and the legality and equity of any and all such claims shall be determined by such commissioners and by the court upon the hearing of their report. Any loss or damage so estimated and determined shall be paid by said town as in case of judgment.

§ 239. **Papers, where filed.**— All applications, certificates, appointments and other papers relating to the laying out, altering or discontinuing of any highway shall be filed by the town superintendent as soon as a decision shall have been made thereon in the town clerk's office of the town.

§ 240. **Costs of motion.**— Costs of a motion to confirm, vacate or modify the report of commissioners appointed by the court to lay out, alter or discontinue a highway may be allowed in the discretion of the court not exceeding fifty dollars. On an uncontested motion to confirm the report of the commissioners so appointed, if said report is favorable to the applicant and confirmed by the court, costs may be allowed not exceeding fifty dollars sufficient to compensate the applicant's attorney for his services in the proceedings. Costs of any other motion in a proceeding in a court of record, authorized by this chapter, may be allowed in the discretion of the court not exceeding ten dollars.

ARTICLE IX.

BRIDGES.

Section 250. When town or county expense.
251. Levy of tax upon county.
252. Penalty, and notice on bridge

Section 253. Offense.
254. Joint liabilities of towns and their joint contracts.
255. Refusal to repair.
256. Proceedings in court.
257. Supervisor to institute proceedings.
258. Duty of superintendents.
259. Report of town superintendents, and levy of tax.
260. Appeals.
261. Power of court on appeal.
262. Refusal to repair bridges.

§ 250. **When town or county expense.**— The towns of this state, except as otherwise herein provided, shall be liable to pay the expenses for the construction and repair of its public free bridges constructed over streams or other waters within their bounds, and their just and equitable share of such expenses when so constructed over streams or other waters upon their boundaries, except between the counties of Westchester and New York; and when such bridges are constructed over streams or other waters forming the boundary line of towns, either in the same or adjoining counties, such towns shall be jointly liable to pay such expenses. When such bridges are constructed over streams or other waters forming the boundary line between a city of the third class and a town, such city and town shall be liable each to pay its just and equitable share of the expenses for the construction, maintenance and repair of such bridges. Except as otherwise provided by law, a city of the third class shall be deemed a town for the purposes of this article. Each of the counties of this state shall also be liable to pay for the construction, care, maintenance, preservation and repair of public bridges, lawfully constructed over streams or other waters forming its boundary line, not less than one-sixth part of the expenses of such construction, care, maintenance, preservation and repair.

§ 251. **Levy of tax upon county.**— Each supervisor shall present to the board of supervisors of his county at its annual session a statement specifying the amount paid during the preceding year ending on the thirty-first of October for the construction, care, maintenance, preservation and repair of public bridges over streams or other waters forming the boundary of such county. The board of supervisors shall levy upon the taxable property of the county a sum sufficient to pay its proportion of such expense,

and the same when collected shall be paid to the supervisor of such town to be applied by him on the order of the town superintendent after audit as provided in this chapter, toward the payment of such expense.

§ 252. **Penalty, and notice on bridge.**— The town superintendent may fix and prescribe a penalty, not less than one or more than five dollars, for riding or driving faster than a walk on any bridge in his town whose chord is not less than twenty-five feet in length, and put up and maintain in a conspicuous place, at each end of the bridge, a notice in large characters, stating each penalty incurred.

§ 253. **Offense.**— Whoever shall ride or drive faster than a walk over any bridge, upon which notice shall have been placed, and shall then be, shall forfeit for every offense, the amount fixed by such town superintendent, and specified in the notice.

§ 254. **Joint liabilities of towns and their joint contracts.**— Whenever any two or more towns shall be liable to make or maintain any bridge or bridges, the same shall be built and maintained at the joint expense of such towns, without reference to town lines, except where the board of supervisors has otherwise apportioned such expense as provided in section ninety-seven. The town superintendents of all the towns, or of one or more of such towns, the others refusing to act, may, when directed by their respective town boards, enter into a joint contract for making and repairing such bridges.

§ 255. **Refusal to repair.**— If the town board of either of such towns, after notice in writing from the town board of any other of such towns, given by the town clerk thereof, shall not within twenty days give their consent in writing to build or repair any such bridge, and shall not within a reasonable time thereafter direct, by resolution, the same to be done, the town board giving such notice may direct the town superintendent to make or repair such bridge, and then maintain an action in the name of the town, against the town which neglects or refuses to join in such making or repairing, and in such action, the plaintiffs shall be entitled to recover so much from the defendant, as the town would be liable to contribute to the same, together with costs and interest.

§ 256. **Proceedings in court.**— Whenever any adjoining towns shall be liable to make or maintain any bridge over any streams dividing such towns, whether in the same or different counties, three freeholders in either of such towns may, by petition signed

by them, apply to the town board in each of such towns, to build, rebuild or repair such bridge, and if such town boards refuse to build, rebuild or repair such bridge within a reasonable time, either for want of funds or any other cause, such freeholders, upon affidavit and notice of motion, a copy of which shall be served on each supervisor at least eight days before the hearing, may apply to the supreme court at a special term thereof, to be held in the judicial district in which such bridge or any part thereof shall be located, for an order requiring such town boards to direct the town superintendents to build, rebuild or repair such bridge, and the court upon such motion may, in doubtful cases, refer the case to some disinterested person to ascertain the requisite facts in relation thereto, and to report the evidence thereof to the court. Upon the coming in of the report, in case of such reference, or upon or after the hearing of the motion, in case no reference shall be ordered, the court shall make an order thereon as the justice of the case shall require. If the motion be granted in whole or in part, whereby funds shall be needed to carry the order into effect, such court shall specify the amount of money required for that purpose, and how much thereof shall be raised in each town.

§ 257. **Supervisor to institute proceedings.**— The supervisor of any such town shall, when directed by the town board, institute and prosecute proceedings under this chapter, in the name of the town, to compel the town board of such adjoining town or towns to cause the town superintendents thereof to join in the building, rebuilding or repair of any such bridge, in like manner as freeholders are thereby authorized.

§ 258. **Duty of superintendents.**— The order for building, rebuilding or repairing a bridge being made, and a copy thereof being served on the town superintendent of such adjoining towns respectively the town superintendents of such towns shall forthwith meet and cause such bridge to be built, rebuilt or repaired in accordance with plans and specifications prepared or approved by the district or county superintendent, out of any funds in the hands of the supervisors of such towns applicable thereto; if an inadequate amount of such funds are on hand, the town boards of such towns shall direct the town superintendents thereof to build, rebuild or repair such bridge, and the same shall be done upon credit, or in part for cash or in part upon credit according

to the exigency of the case; and such town boards shall direct the superintendents to enter into a contract, to be approved by such town boards, for building, rebuilding or repairing such bridge pledging the credit of each town for the payment of its appropriate share so far as the same shall be upon credit.

§ 259. **Report of town superintendents, and levy of tax.**— The town superintendent of each town shall make a full and verified report of their proceedings in the premises including an accurate account of what has been done in respect to such bridge, and shall attach thereto a copy of the order granted by the supreme court. Such report, account and order shall be certified by the town board and delivered to the supervisor and be presented by him to the board of supervisors of his county. The board of supervisors at their annual meeting shall levy a tax upon each of such towns, when in the same county, and upon the appropriate towns when in different counties, for its share of the costs of building, rebuilding and repairing such bridge, after deducting all payments actually made by the supervisor upon the written order of the town superintendent. Such tax, including all payments, shall in no case exceed the amount specified in the order of the supreme court.

§ 260. **Appeals.**— Either party aggrieved by the granting or refusing to grant such order by the court at special term, may appeal from such decision to the appellate division of the supreme court for the review of the decision. The appellate division may alter, modify or reverse the order, with or without costs.

§ 261. **Power of court on appeal.**— The special term may grant or refuse costs as upon a motion, including also witnesses' fees, referees' fees and disbursements. The appeal provided for in the last preceding section shall conform to the practice of the supreme court, in case of appeal from an order of a special term to the appellate division.

§ 262. **Refusal to repair bridges.**— Whenever any such bridge shall have been or shall be so out of repair as to render it unsafe for travelers to pass over the same, or whenever any such bridge shall have fallen down, or been swept away by a freshet or otherwise, if the town superintendent of the adjoining town or towns, after reasonable notice of such condition of the bridge, have neglected or refused, or shall neglect or refuse to repair or rebuild it, then whatever funds have been or shall be necessarily or reasonably laid out or expended in repairing such bridge or in

rebuilding the same, by any person or corporation, shall be a charge on such adjoining town or towns, each being liable for its just proportion; and the person or corporation who has made such expenditure, or shall make such expenditures, may apply to the supreme court, at a special term, for an order requiring such towns severally to reimburse such expenditures, which application shall be made upon papers to be served upon the town superintendents of such towns at least eight days prior thereto; and the court may grant an order requiring each adjoining town or towns to pay its just proportion of the expenditure, specifying the same; and the town superintendent of each of such towns shall forthwith serve a copy of such order upon the supervisor of each of their towns, who shall present the same to the board of supervisors, at their next annual meeting. The board of supervisors shall raise the amount charged upon each town by the order, and cause the same to be collected and paid to such persons or corporation as incurred the expenditure. The order shall be appealable.

ARTICLE XI.

FERRIES.

Section 270. Licenses.
271. Undertaking.
272. Appendages for rope ferries.
273. Superintendent of public works may lease right of passage.
274. When schedules to be posted.

§ 270. **Licenses.**— The county court in each of the counties of this state or the city court of a city, may grant licenses for keeping ferries in their respective counties and cities, to such persons as the court may deem proper, for a term not exceeding five years. No license shall be granted to a person, other than the owner of the land through which that part of the highway adjoining to the ferry shall run, unless the owner is not a suitable person or shall neglect to apply after being served with eight days' written notice from such person of the time and place at which he will apply for such license, or having obtained such license, shall neglect to comply with the conditions of the license or maintain the ferry. Every license shall be entered in the book

of minutes of the court by the clerk; and a certified copy thereof shall be delivered to the person licensed. When the waters over which any ferry may be used shall divide two counties or cities, or a county and city, a license obtained in either of the counties or cities shall be sufficient to authorize transportation of persons, goods, wares and merchandise, to and from either side of such waters.

§ 271. **Undertaking.**— Every person applying for such license shall, before the same is granted, execute and file with the clerk of the court his undertaking with one or more sureties, approved by the court, to the effect that he will attend such ferry with sufficient and safe boats and other implements, and so many men to work the same as shall be necessary during the several hours in each day, and at such rates as the court shall direct.

§ 272. **Appendages for rope ferries.**— Any person licensed to keep a ferry may, with the written consent of the town superintendent of the town where such ferry may be, erect and maintain within the limits of the highway, at such point as shall be designated in such consent, a post or posts, with all necessary braces and appendages for a rope ferry.

§ 273. **Superintendent of public works may lease right of passage.**— The superintendent of public works, may, where ferries are now maintained at tide-water, lease the right of passage for foot passengers across state lands adjoining tide-water for a period not exceeding ten years, on such conditions as he may deem advantageous to the state.

§ 274. **When schedules to be posted.**— Every person licensed to operate or control any ferry in this state, or between this state and any other state, operating from or to a city of fifty thousand inhabitants or over, shall post in a conspicuous and accessible position outside and adjacent to each entrance to such ferry, and in at least four accessible places, in plain view of the passengers upon each of the boats used on such ferry, a schedule plainly printed in the English language of the rates of ferriage charges thereon, and authorized by law to be charged for ferriage over such ferry. If any such person shall fail to comply with the provisions of this section, or shall post a false schedule, he shall forfeit the sum of fifty dollars for each day's neglect or refusal to post such schedule or any of them, to be recovered by any person who shall sue therefor in any court of competent jurisdiction.

ARTICLE XII.

MISCELLANEOUS PROVISIONS.

Section 280. Construction or improvement of highways by county and town.
281. When commissioners do not act.
282. Intemperate drivers not to be engaged.
283. Drivers, when to be discharged.
284. Leaving horses without being tied.
285. Owners of certain carriages liable for acts of drivers.
286. Term "carriage" defined.
287. Entitled to free use of highways.
288. Depositing ashes, stones, sticks, etc., upon the highway.
289. Steam traction engines on highways.
290. Injuries to highways.
291. When town not liable for damages.
292. Law of the road.
293. Trees, to whom they belong.
294. Injuring fruit or shade trees.
295. Penalty for falling trees.
296. Fallen trees to be removed.
297. Penalties, how recovered.
298. Acquisition of plank roads.
299. Borrowing money; bonds.
300. Raising money to pay bonds and interest.
301. Roads so acquired to be part of highway system.
302. When road is in two or more counties.
303. Albany post road; railroad tracks thereon.

§ 280. **Construction or improvement of highways by county and town.**— The board of supervisors of a county may provide for the construction or improvement of a highway or section thereof in one or more towns of the county at the joint expense of the county and town, as provided in this section. The board may, by resolution, direct the district or county superintendent to examine such highway or section thereof, and if the board considers such highway or section thereof to be of sufficient importance to be constructed or improved as provided herein, it shall direct such district or county superintendent to prepare or cause to be prepared maps, plans, specificatons* and estimates

* So in original.

therefor. Upon the completion of such preliminary maps, plans, specifications and estimates they shall be submitted to the board of supervisors for approval, and such board may thereupon adopt a resolution providing for the construction or improvement of such highway in accordance with such plans, specifications and estimates. The board of supervisors shall award contracts for the construction or improvement of such highway and the provisions of section one hundred and thirty of this chapter shall apply so far as may be to such contracts. Such contract may be awarded to the town board of any town in which such highway or section thereof is located and the provisions of section one hundred and thirty-one of this chapter shall apply thereto so far as may be. The board of supervisors shall determine the portion of the cost of the construction or improvement of such highway to be borne by the county and the portion to be borne by the town or towns in which such highway is located. The amount so determined to be borne by the county shall be levied and collected as a county charge and paid into the county treasury. The amount to be borne by the town or towns in which the highway is located shall be levied and collected as a town charge and when collected shall be paid into the county treasury. The amount so paid by the town shall not be considered in determining the minimum amount to be levied and collected in each year for the repair and improvement of highways as provided in section ninety-four of this chapter nor shall such amount be considered in determining the amount to be paid by the state to the town for the repair and improvement of highways therein. The resolution of the board of supervisors providing for the construction or improvement of such highway may authorize the county treasurer of the county or the supervisors of the respective towns to borrow money on the faith and credit of the county or of such towns to pay the portion of the cost of such construction or improvement to be borne respectively by the county or such town or towns. Such resolution may also provide for the issue and sale of such bonds and shall conform so far as may be with the provisions of this chapter relating to a resolution authorizing a town to borrow money for highway purposes.

The construction or improvement authorized by such resolutions shall be done under the supervision and direction of the district or county superintendent. Payments therefor shall be

made from time to time by the county treasurer upon the certificate of the district or county superintendent indorsed by the chairman of the board of supervisors. Such highways, when completed and accepted by the board of supervisors, shall be thereafter repaired and maintained at the sole expense of the towns in which they are located, unless the board of supervisors shall apportion a share of the expense thereof upon the county.

§ 281. **When commissioners do not act.**— When a commissioner or other officer appointed by a court under this chapter shall neglect or be prevented from serving, the courts which appointed him shall appoint another in his place.

§ 282. **Intemperate drivers not to be engaged.**—No person owning any carriage for the conveyance of passengers, running or traveling upon any highway or road, shall employ, or continue in employment, any person to drive such carriage who is addicted to drunkenness, or to the excessive use of spirituous liquors; and if any such owner shall violate the provisions of this section, he shall forfeit at the rate of five dollars per day, for all the time during which he shall have kept any such driver in his employment.

§ 283. **Drivers, when to be discharged.**— If any driver, while actually employed in driving any such carriage, shall be guilty of intoxication, to such a degree as to endanger the safety of the passengers in the carriage, the owner of such carriage shall, on receiving written notice of the fact, signed by any one of said passengers, and certified by him on oath, forthwith discharge such driver from his employment; and every such owner, who shall retain, or have in his service within six months after the receipt of such notice, any driver who shall have been so intoxicated, shall forfeit at the rate of five dollars per day, for all the time during which he shall keep any such driver in his employment after receiving such notice.

§ 284. **Leaving horses without being tied.**— No driver of any carriage used for the purpose of conveying passengers for hire shall leave the horses attached thereto, while passengers remain in the same, without first making such horses fast with a sufficient halter, rope or chain, or by placing the lines in the hands of some other person so as to prevent their running; and if any such driver shall offend against the provisions of this section, he shall forfeit the sum of twenty dollars.

§ 285. **Owners of certain carriages liable for acts of drivers.**— The owners of every carriage running or traveling upon any turn-

pike, road or highway, for the conveyance of passengers, shall be liable jointly and severally, to the party injured, for all injuries and damages done by any person in the employment of such owners, as a driver, while driving such carriage, whether the act occasioning such injury or damage be wilful or negligent, or otherwise, in the same manner as such driver would be liable.

§ 286. **Term "carriage" defined.**— The term "carriage" as used in this article shall be construed to include stage coaches, wagons, carts, sleighs, sleds, automobiles or motor vehicles, and every other carriage or vehicle used for the transportation of persons and goods, or either of them, and bicycles, tricycles and all other vehicles propelled by manumotive or pedomotive power, or by electricity, steam, gasoline or other source of energy.

§ 287. **Entitled to free use of highways.**— The commissioners, trustees or other authorities having charge or control of any highway, public street, park, parkway, driveway, or place, shall have no power or authority to pass, enforce or maintain any ordinance, rule or regulation by which any person using a bicycle or tricycle shall be excluded or prohibited from the free use of any highway, public street, avenue, roadway, driveway, parkway, park, or place, at any time when the same is open to the free use of persons having and using other pleasure carriages, except upon such driveway, speedway or road as has been or may be expressly set apart by law for the exclusive use of horses and light carriages. But nothing herein shall prevent the passage, enforcement or maintenance of any regulation, ordinance or rule, regulating the use of bicycles or tricycles in highways, public streets, driveways, parks, parkways, and places, or the regulation of the speed of carriages, vehicles or engines, in public parks and upon parkways and driveways in the city of New York, under the exclusive jurisdiction and control of the department of parks of said city, nor prevent any such commissioners, trustees or other authorities in any other city from regulating the speed of any vehicles herein described in such manner as to limit and determine the proper rate of speed with which such vehicle may be propelled nor in such manner as to require, direct or prohibit the use of bells, lamps and other appurtenances nor to prohibit the use of any vehicle upon that part of the highway, street, park, or parkway, commonly known as the footpath or sidewalk.

§ 288. **Depositing ashes, stones, sticks, etc., upon the highway.**— Any person who shall deposit or throw loose stones in the gutter

or grass adjoining a highway, or shall deposit or throw upon a highway, ashes, papers, stones, sticks, or other rubbish, shall be liable to a penalty of ten dollars to be sued for and recovered by the town superintendent. No stone or other rubbish shall be drawn to and deposited within the limits of any highway, except for the purpose of filling in a depression or otherwise improving the highway, without the consent and under the direction of the town superintendent.

§ 289. **Steam traction engines on highways.**— The owner of a steam roller, steam traction engine or any other machinery, either propelled or driven by steam, his servant or agent shall not allow, permit or use the same, pass over, through or upon any public highway or street except upon railroad tracks, unless such owner or his agents or servant shall send before the same a person of mature age, at least one-eighth of a mile in advance, who shall notify and warn persons traveling and using such highway or street with horses or other domestic animals, of the approach thereof, and at night such person shall carry a red light, except in incorporated villages and cities.

§ 290. **Injuries to highways.**— Whoever shall injure any highway or bridge maintained at the public expense, by obstructing or diverting any creek, water-course or sluice, or by dragging logs or timber on its surface, or by any other act, or shall injure, deface or destroy any mile-stone or guide-post erected on any highway, shall for every such offense forfeit treble damages.

§ 291. **When town not liable for damages.**— No town shall be liable for any damage resulting to person or property by the reason of the breaking of any bridge, sluice or culvert, by transportation on the same of any traction engine, portable piece of machinery, or of any vehicle or load, together weighing eight tons or over, but any owner thereof or other person engaged in transporting or directing the same shall be liable for all damages resulting therefrom.

§ 292. **Law of the road.**— 1. Whenever any persons traveling with any carriages, or riding horses or other animals, shall meet on any turnpike road or highway, the persons so meeting shall seasonably turn their carriages, horses, or other animals to the right of the center of the road, so as to permit such carriages, horses, or other animals to pass without inteference* or interruption.

* So in original.

2. Any carriage or the rider of a horse or other animal, overtaking another shall pass on the left side of the overtaken carriage, horse or other animal. When requested to do so, the driver or person having charge of any carriage, horse or other animal, traveling, shall, as soon as practicable, turn to the right, so as to allow any overtaking carriage, horse or other animal free passage on his left.

3. In turning corners to the right, carriages, horses or other animals shall keep to the right of the center of the road. In turning corners to the left, they shall pass to the right of the center of intersection of the two roads.

4. Any person neglecting to comply with, or violating any provision of this section shall be liable to a penalty of five dollars to be recovered by the party injured, in addition to all damages caused by such neglect or violation.

§ 293. **Trees; to whom they belong.**— All trees standing or lying on any land within the bounds of any highway, shall be for the proper use of the owner or occupant of such land, except that they may be required to repair the highway or bridges of the town.

§ 294. **Injuring fruit or shade trees.**— It shall be unlawful for any person or persons whatsoever in this state to hitch any horse or other animal to or leave the same standing near enough to injure any fruit or forest tree growing within the bounds of the public highway, or used as a shade or ornamental tree around any schoolhouse, church or public building, or to cut down or mutilate in any way any such ornamental or shade tree; but the right of property owners along the highway to cultivate, train and use such shade trees shall not be impaired or abridged hereby. Any person or persons guilty of violating the provisions of this section shall be deemed guilty of misdemeanor, and shall be punishable by a fine of not less than five dollars, nor more than twenty-five dollars for each such offense, and in case of failure to pay any fine imposed, may be committed to jail, not exceeding one day for each dollar of such fine. Courts of special sessions having jurisdiction to try misdemeanors, as provided by section fifty six of the code of criminal procedure, shall have exclusive jurisdiction to try offenders in all cases occurring in the same manner as in other cases, where they now have jurisdiction, and subject to the same power of removal, and to render and enforce judgments, to the extent herein provided. All fines collected under the

provisions of this act shall be paid when the offense is committed in a town outside of incorporated villages, to the supervisor of the town, to be used as the town board and town superintendent may direct. When the offense is committed in any village of the county, which by law is constituted a separate road district, the fine shall be paid to the treasurer of said village, to be used as the board of trustees may direct.

§ 295. **Penalty for falling trees.**— If any person shall cut down any tree on land not occupied by him, so that it shall fall into any highway, river or stream, unless by the order and consent of the occupant, the person so offending shall forfeit to such occupant the sum of one dollar for every tree so fallen, and the like sum for every day the same shall remain in the highway, river or stream.

§ 296. **Fallen trees to be removed.**—If any tree shall fall, or be fallen by any person from any inclosed land into any highway, any person may give notice to the occupant of the land from which the tree shall have fallen, to remove the same within two days; if such tree shall not be removed within that time, but shall continue in the highway, the occupant of the land shall forfeit the sum of fifty cents for every day thereafter, until the tree shall be removed.

§ 297. **Penalties, how recovered.**— All penalties or forfeitures given in this chapter, and not otherwise specially provided for, shall be recovered by the town superintendent, in the name of the town in which the offense shall be committed; and when recovered, shall be applied by them in improving the highways and bridges in such town.

§ 298. **Acquisition of plank roads.**— The board of supervisors of any county, except a county wholly within the city of New York, and except the counties of Erie and Essex, may by a vote of a majority of the members thereof, by resolution, determine to acquire the rights and franchises of any individual or corporation, lawfully entitled to exact toll or charge for walking, riding or driving over any plankroad or turnpike, or a bridge within such county, erected over any unnavigable stream, or over the Hudson river above Waterford. Upon the adoption of such resolution, the board of supervisors shall acquire such rights, franchises and property by purchase, if able to agree with the owners thereof, and otherwise by condemnation in the name of the county.

§ 299. **Borrowing money; bonds.**—The board of supervisors of such county may borrow money for the acquisition of such rights, franchises, and property, and may issue the bonds or other evi-

dences of indebtedness of the county therefor, but such bonds or other evidences of indebtedness shall not bear a rate of interest exceeding five per centum per annum and shall not run for a longer period than twenty years and shall not be sold for less than par.

§ 300. **Raising money to pay bonds and interest.**—Except in the counties of Rensselaer, Onondaga, Albany and Columbia, the amount of such bonds in whole or in part together with the interest thereon may be apportioned by the boards of supervisors upon the towns, cities and villages constituting separate highway districts, in which such plankroad, turnpike or bridge is located, in such proportions as the boards may deem just and the amount so apportioned to each municipality for the payment of the principal and interest of such bonds shall be annually levied and collected at the same time and in the same manner as money for other county charges. In the counties of Rensselaer and Columbia, the boards of supervisors, in making up the annual tax budget of the counties, shall each year levy and assess upon and against the taxable property in said counties, in addition to the amounts levied and assessed for other county charges, an amount sufficient to pay the interest falling due and payable on the said bonds during such year, and also an amount sufficient to pay the proportion of the years fixed at the time during which said bonds shall run from their issue to maturity. The amount raised by tax in each year for the payment of the principal of said bonds shall be preserved intact by the county treasurers of said counties until said bonds mature and are payable, and upon the maturity of said bonds, said county treasurer shall pay the same in full out of the moneys so raised by annual tax therefor and shall thereupon take back said bonds with receipts for the payment thereof and deliver them to the boards of supervisors of said counties for cancellation. Said county treasurer shall deposit at interest the said moneys yearly raised by tax for payment of the principal of said bonds in such bank or depository as shall be designated by the boards of supervisors of said counties, and the amount realized from the interest thereon shall be used for the purposes of the said counties under the direction of the said boards of supervisors.

§ 301. **Roads so acquired to be part of highway system.**—A plankroad, turnpike or bridge acquired pursuant to this article shall become a part of a highway system of such county and of the towns, cities and villages in which the same is located, and shall thereafter be repaired and maintained in the same manner as the other highways or bridges therein.

§ 302. **When road is in two or more counties.**— When a plank-road, turnpike, toll road or bridge is partly in one county and partly in another, the boards of supervisors of the said counties shall act together in the manner prescribed above, and determine the amount to be paid to said plankroad, turnpike, toll road or bridge company, by each county, and such amount against each county, after such determination, shall be paid by each county.

§ 303. **Albany post road; railroad tracks thereon.**— The old established road along the valley of the Hudson river from the city of New York to the city of Albany, known as the Albany post road, shall be a public highway for the use of the traveling public forever. The said highway shall be kept open and free to all travelers, and shall not be obstructed in any way by any obstacle to free travel. No trustees of any village or corporation of any city upon its route, or town superintendents of highways of towns, or any other person or board whatever, shall have any power or authority to authorize or license the laying of any railroad track upon said highway, except to cross the same, and any such action shall be void and of no effect. This section shall not apply to any portion of said road within the city of New York, nor shall it apply to the road of the president, directors and company of the Rensselaer and Columbia turnpike, nor to the town of Cortlandt or the village of Sing Sing, in Westchester county.

ARTICLE XIII.

SAVING CLAUSES; LAWS REPEALED; WHEN TO TAKE EFFECT.

Section 310. Transfer of powers and duties of state engineer.
311. Transfer of records; eligibility of present employees.
312. County engineers and superintendents of highways to be continued in office.
313. Pending actions or proceedings.
314. Saving clause.
315. County highway maps preserved.
316. Construction.
317. When to take effect.
318. Laws repealed.

§ 310. **Transfer of powers and duties of state engineer.**— On and after the taking effect of this chapter, and the appointment

and qualification of the state commission as herein authorized, all the powers and duties of the state engineer in respect to highways and bridges, conferred and imposed by any statute of this state, shall be transferred to the department of highways to be exercised and performed by the state commission of highways as provided herein.

§ 311. **Transfer of records; eligibility of present employees.**— The state engineer shall transfer and deliver to the state commission of highways all contracts, books maps, plans, papers and records of whatever description, in his possession when such commission is appointed and have qualified, pertaining to the construction, improvement, maintenance and supervision of highways and bridges and such commission is authorized at such time to take possession of all such contracts, books, maps, plans, papers and records. The commission may also retain in its employment resident and other engineers, levelers, rodmen, clerks and employees engaged or connected with the department of highways in the office of the state engineer, or employed by him in connection with the powers and duties exercised and performed by him in respect to highways and bridges, and all such engineers, clerks and employees shall be eligible to transfer and appointment to positions under the commission.

§ 312. **County engineers and superintendents of highways to be continued in office.**— County engineers and superintendents of highways in office when this chapter takes effect shall be continued in office during their present term of office and until the district or county superintendents shall have been appointed and have qualified as provided in this chapter. Such county engineers and superintendents of highways shall exercise the powers and perform the duties hereby conferred and imposed upon district or county superintendents until the appointment and qualification of a district or county superintendent as above provided. Upon the appointment and qualification of a district or county superintendent for the county for which such county engineer or superintendent of highways is appointed all contracts, books, maps, plans, papers, and records pertaining to the construction, improvement, maintenance and supervision of highways in such county shall be transferred to such district or county superintendent.

§ 313. **Pending actions or proceedings.**—This chapter shall not affect pending actions or proceedings, civil or criminal, pertain-

ing to the construction, improvement, maintenance, supervision or control of highways and bridges, brought by or against the state engineer, or county engineer or a county superintendent of highways, or a commissioner of highways, under the provisions of any statute hereby repealed, but the same may be prosecuted or defended in the same manner by the commission or by the officer having jurisdiction in respect thereto. Any investigation, examination or proceeding undertaken, commenced or instituted by the state engineer, county engineer or highway commissioner or either of them relating to highways or bridges may be conducted or continued to a final determination by the proper officer hereunder, in the same manner, and under the same terms and conditions, and with the same effect as though this chapter had not been passed.

§ 314. **Saving clause.**— The repeal of a law, or any part of it specified in the annexed schedule shall not affect or impair any contract, or any act done, or right accruing, accrued or acquired or any penalty, forfeiture, or punishment incurred prior to the time when this chapter or any section thereof takes effect, under or by virtue of the laws so repealed, but the same may be asserted, enforced, prosecuted, or inflicted, as fully and to the same extent, as if such laws had not been repealed. The provisions of this chapter shall not affect or impair any act done or right accruing, accrued or acquired under or in pursuance of any resolution adopted by the board of supervisors of a county, on or before the thirty-first day of December, nineteen hundred and eight, requesting the construction or improvement of a highway therein, as provided in chapter one hundred and fifteen of the laws of eighteen hundred and ninety-eight, and the acts amendatory thereof. or under or in pursuance of any resolution adopted on or before such date by a board of supervisors, under such act and the acts amendatory thereof, providing for the construction or improvement of a highway in a county in accordance with maps, plans and specifications submitted to such board by the state engineer, or under or in pursuance of any contract for the construction or improvement of a highway, awarded as provided in such chapter one hundred and fifteen of the laws of eighteen hundred and ninety-eight, and the acts amendatory thereof. All further proceedings in respect to such highway shall be taken in accordance with the provisions of this chapter.

§ 315. **County highway maps preserved.**— The county highways to be selected by the commission for construction or improvement, as provided in this chapter, shall be the highways in the respective counties designated upon the map of the highways of the state, prepared by the state engineer as provided by law, and approved by the legislature by chapter seven hundred and fifteen of the laws of nineteen hundred and seven; except the highways on such map which have been designated and described as state highways by section one hundred and twenty of this chapter. Such map shall remain in full force and effect notwithstanding the repeal of such chapter seven hundred and fifteen of the laws of nineteen hundred and seven by this chapter; except that the board of supervisors of any county is hereby authorized to modify the designation of county highways on such map by resolution duly adopted by a majority vote of the members of such board, provided the total mileage as originally designated upon the county map in such county is not thereby materially increased. A certified copy of such resolution shall be transmitted to the commission, or to the state engineer if the same be adopted prior to the appointment and qualifications of the commission.

§ 316. **Construction.**— Wherever the term state engineer shall occur in any law, contract or document such term shall be deemed to refer to the state commission of highways as established by this chapter so far as such law, contract or document pertains to matters which are within the jurisdiction of such commission of highways. Wherever the term county engineer or county superintendent of highways is used in any such law, contract or document such term shall be deemed to refer to and include the county or district superintendent having jurisdiction of the matter contained in such law, contract or document.

The provisions of this chapter, so far as they are substantially the same as those existing at the time they shall take effect, shall be construed as a continuation of such laws, modified or amended, according to the language employed in this chapter, and not as new enactments. References in laws not repealed to provisions of law incorporated in this chapter and repealed, shall be construed as applying to the provisions so incorporated.

§ 317. **When to take effect.**— This chapter shall take effect the first day of January, nineteen hundred and nine, except as to the provisions specified as follows:

1. The provisions of sections forty-three, ninety, ninety-one, ninety-four, ninety-five, ninety-nine, and one hundred, relating to highway commissioners, estimates of expenditures, duties of town board in respect thereto, levy of taxes, the limitation of amounts to be raised, submission of propositions at town meetings, assessments of village property and statements by the clerk of the board of supervisors to the comptroller, shall take effect immediately.

2. The provisions of sections one hundred and thirty and one hundred and thirty-one of this chapter, pertaining to the award of contracts for the construction of county highways shall take effect immediately and shall apply to contracts to be awarded under chapter one hundred and fifteen of the laws of eighteen hundred and ninety-eight and the acts amendatory thereof, prior to January first, nineteen hundred and nine; and until the commission shall have been appointed and have duly qualified, the state engineer and surveyor shall exercise the powers and perform the duties conferred upon the said commission by the foregoing sections.

3. The provisions of section one hundred and seventy-nine, relating to the sprinkling of state and county highways and the removal of refuse therefrom; the provisions of section two hundred and eighty, relating to the construction or improvement of highways at the joint expense of a county and town, and the provisions of section three hundred and fifteen relating to the modification of maps by boards of supervisors and the provisions of this section shall take effect immediately.

§ 318. **Laws repealed.**— Of the laws enumerated by the schedule hereto annexed that portion specified in the last column is hereby repealed. Such repeal shall not revive a law repealed by any law hereby repealed, but shall include all laws amendatory of the laws hereby repealed.

SCHEDULE OF LAWS REPEALED.

Revised Statutes.... Part I, chapter 16, titles 1, 2.... All.
Revised Statutes.... Part I, chapter 20, title 13..... All.

Laws of	Chapter.	Sections.
1797.....	43.....	All
1797.....	63.....	2
1797.....	64.....	All
1798.....	35.....	1-9, 11-16

Laws of	Chapter.	Sections.
1801.....	186.....	1–27, 30, 32, 34, 40, 41
1802.....	32.....	All
1802.....	75.....	All
1803.....	14.....	All
1804.....	49.....	All
1807.....	50.....	All
1808.....	205.....	1–5, 7
1810.....	163.....	2, 3
1811.....	97.....	All
R. L. 1813...	33.....	1–43, 45, 47
R. L. 1813...	64.....	All
1817.....	43.....	All
1817.....	83.....	All
1819.....	127.....	1
1820.....	227.....	All
1821.....	128.....	All
1821.....	183.....	All
1823.....	262.....	62
1826.....	45.....	5
1826.....	198.....	All
1826.....	222.....	All
1827.....	224.....	All
1828.....	21.....	1 139, 147, 156, 223, 279, 311, 325, 331, 398, 476, 478, 512.
1830.....	56.....	107
1832.....	107.....	All
1832.....	274.....	All
1833.....	149.....	All
1834.....	267.....	All
1835.....	154.....	All
1836.....	122.....	All
1836.....	281.....	All
1837.....	431.....	All
1840.....	300.....	All
1841.....	225.....	All
1845.....	70.....	7–10
1845.....	180.....	5–14
1846.....	324.....	9
1847.....	455.....	2–12, 15, 18–23, 25–27

Laws of	Chapter.	Sections.
1848.....	77.....	All
1853.....	63.....	All
1853.....	135.....	All
1853.....	174.....	All
1854.....	324.....	All
1855.....	255.....	All
1857.....	383.....	All
1857.....	491.....	All
1857.....	615.....	All
1857.....	639.....	All
1858.....	51.....	All
1858.....	103.....	All
1859.....	373.....	All
1860.....	61.....	All
1860.....	468.....	All
1861.....	30.....	All
1861.....	311.....	All
1862.....	220.....	10, pt.
1862.....	243.....	All
1863.....	93.....	All
1863.....	444.....	All
1864.....	395.....	All
1865.....	442.....	All
1865.....	522.....	1–5,
1866.....	180.....	All
1866.....	770.....	All
1868.....	791.....	All
1868.....	843.....	All
1869.....	24.....	All
1869.....	131.....	All
1869.....	322.....	All
1869.....	593.....	All
1870.....	125.....	All
1870.....	311.....	All
1870.....	461.....	All
1870.....	595.....	All
1871.....	171.....	All
1871.....	245.....	All
1872.....	274.....	1
1872.....	315.....	All
1872.....	519.....	All

Laws of	Chapter.	Sections.
1873.....	63.....	All
1873.....	69.....	All
1873.....	315.....	All
1873.....	395.....	All
1873.....	448.....	All
1873.....	477.....	All
1873.....	773.....	All
1874.....	169.....	All
1874.....	446.....	Tit. 3, § 11, pt. exempting officers of lunatic asylums from highway assessments.
1874.....	570.....	All
1874.....	613.....	All
1875.....	22.....	All
1875.....	196.....	All
1875.....	215.....	All
1875.....	341.....	All
1875.....	431.....	All
1876.....	271.....	All
1876.....	340.....	All
1876.....	348.....	All
1877.....	197.....	All
1877.....	344.....	All
1877.....	465.....	All
1878.....	44.....	All
1878.....	49.....	All
1878.....	114.....	All
1878.....	245.....	All
1878.....	377.....	All
1879.....	31.....	All
1879.....	67.....	All
1880.....	114.....	All
1880.....	305.....	All
1880.....	308.....	All
1880.....	503.....	All
1881.....	233.....	All
1881.....	344.....	All
1881.....	513.....	All
1881.....	644.....	All
1881.....	696.....	All

Laws of	Chapter.	Sections.
1881.....	700.....	All
1883.....	99.....	All
1883.....	196.....	All
1883.....	254.....	All
1883.....	346.....	All
1883.....	371.....	All
1883.....	398.....	All
1884.....	220.....	All
1884.....	251.....	All
1884.....	344.....	All
1884.....	359.....	All
1884.....	396.....	All
1884.....	479.....	All
1885.....	267.....	11
1886.....	269.....	All
1886.....	291.....	All
1886.....	344.....	All
1886.....	422.....	All
1886.....	452.....	All
1887.....	471.....	All
1887.....	526.....	All
1887.....	604.....	All
1887.....	704.....	All
1888.....	240.....	All
1888.....	260.....	All
1888.....	428.....	All
1889.....	120.....	All
1889.....	146.....	All
1889.....	259.....	All
1890.....	210.....	All
1890.....	268.....	All
1890.....	291.....	All
1890.....	493.....	All
1890.....	558.....	All
1890.....	568.....	All
1891.....	192.....	All
1891.....	212.....	All
1891.....	309.....	All
1892.....	493.....	All
1893.....	333.....	All
1893.....	412.....	All

Laws of	Chapter.	Sections
1893.....	419.....	All
1893.....	468.....	All
1893.....	582.....	All
1893.....	607.....	All
1893.....	655.....	All
1894.....	334.....	All
1894.....	727.....	All
1895.....	181.....	All
1895.....	330.....	All
1895.....	375.....	All
1895.....	386.....	All
1895.....	411.....	All
1895.....	416.....	All
1895.....	508.....	All
1895.....	579.....	All
1895.....	586.....	All
1895.....	606.....	All
1895.....	611.....	All
1895.....	716.....	All
1895.....	717.....	All
1896.....	423.....	All
1896.....	464.....	All
1896.....	973.....	All
1896.....	987.....	All
1897.....	204.....	All
1897.....	227.....	All
1897.....	286.....	All
1897.....	334.....	All
1897.....	344.....	All
1897.....	782.....	All
1898.....	106.....	All
1898.....	115.....	All
1898.....	127.....	All
1898.....	155.....	All
1898.....	350.....	All
1898.....	351.....	All
1898.....	352.....	All
1898.....	353.....	All
1898.....	641.....	All
1899.....	78.....	All
1899.....	84.....	All

Laws of	Chapter.	Sections.
1899.....	92.....	All
1899.....	152.....	All
1899.....	232.....	All
1899.....	285.....	All
1899.....	344.....	All
1899.....	345.....	All
1899.....	594.....	All
1899.....	622.....	All
1899.....	681.....	All
1899.....	703.....	All
1900.....	25.....	All
1900.....	153.....	All
1900.....	293.....	All
1900.....	300.....	All
1900.....	313.....	All
1900.....	399.....	All
1900.....	516.....	All
1900.....	576.....	All
1900.....	640.....	All
1901.....	35.....	All
1901.....	54.....	All
1901.....	60.....	All
1901.....	109.....	All
1901.....	125.....	All
1901.....	129.....	All
1901.....	150.....	All
1901.....	162.....	All
1901.....	168.....	All
1901.....	239.....	All
1901.....	240.....	All
1901.....	437.....	All
1901.....	441.....	All
1901.....	464.....	All
1901.....	531.....	All
1902.....	52.....	All
1902.....	53.....	All
1902.....	75.....	All
1902.....	96.....	All
1902.....	105.....	All
1902.....	129.....	All

Laws of	Chapter.	Sections.
1902.....	156.....	All
1902.....	166.....	All
1902.....	242.....	All
1902.....	258.....	All
1902.....	305.....	All
1902.....	331.....	All
1902.....	323.....	All
1902.....	321.....	All
1902.....	379.....	All
1902.....	396.....	All
1902.....	510.....	All
1903.....	4.....	All
1903.....	27.....	All
1903.....	57.....	3, 4
1903.....	136.....	All
1903.....	172.....	All
1903.....	228.....	All
1903.....	269.....	All
1903.....	460.....	All
1903.....	610.....	All
1903.....	625.....	All
1903.....	643.....	All
1904.....	51.....	All
1904.....	109.....	All
1904.....	111.....	All
1904.....	153.....	All
1904.....	183.....	All
1904.....	192.....	All
1904.....	297.....	All
1904.....	298.....	All
1904.....	299.....	All
1904.....	324.....	All
1904.....	342.....	All
1904.....	353.....	All
1904.....	387.....	All
1904.....	426.....	All
1904.....	443.....	All
1904.....	456.....	All
1904.....	478.....	All
1904.....	495.....	All
1904.....	536.....	All

Laws of	Chapter.	Sections.
1904.....	540.....	All
1904.....	608.....	All
1904.....	609.....	All
1904.....	611.....	All
1904.....	612.....	All
1904.....	646.....	All
1904.....	688.....	All
1905.....	108.....	All
1905.....	120.....	All
1905.....	293.....	All
1905.....	417.....	All
1905.....	605.....	All
1905.....	672.....	All
1906.....	67.....	All
1906.....	101.....	All
1906.....	149.....	All
1906.....	265.....	All
1906.....	311.....	All
1906.....	363.....	All
1906.....	423.....	All
1906.....	468.....	All
1906.....	530.....	All
1907.....	50.....	All
1907.....	104.....	1, first two sentences.
1907.....	128.....	All
1907.....	191.....	All
1907.....	246.....	All
1907.....	270.....	All
1907.....	382.....	All
1907.....	404.....	All
1907.....	453.....	All
1907.....	648.....	All
1907.....	715.....	All
1907.....	716.....	All
1907.....	717.....	All
1907.....	719.....	All
1907.....	743.....	All

Chap. 331.

AN ACT to authorize the commissioners of the land office to release certain lands on the site of the state normal school at New Paltz for a highway and making an appropriation for the construction of such highway.

Became a law, May 19, 1908, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Upon the abandonment of that portion of the Plattekill road which extends in a southeasterly direction across the site of the state normal school at New Paltz and upon title thereto being conveyed to or vested in the people of the state of New York, the commissioners of the land office, with the approval of the commissioner of education, are hereby authorized to release for the construction of a highway, a strip of land not to exceed fifty feet in width along the northern boundary of the site of said state normal school from the intersection of said northern boundary by the present Plattekill road to the northeast corner of the said state normal school site and thence along the eastern boundary of said site to the said Plattekill road at the southeast corner of said state normal school site.

§ 2. This act shall take effect immediately.

Chap. 332.

AN ACT to establish a retirement fund for pensioning retired teachers, supervisors, superintendents and principals of the public schools of the city of Cohoes, and to regulate the collection and management and disbursement thereof.

Became a law, May 19, 1908, with the approval of the Governor. Passed, three-fifths being present.

Accepted by the City.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The president of the board of education of the city of Cohoes, the mayor of the city of Cohoes, and five teachers of

the public schools of the city of Cohoes, of which teachers two shall be school principals, shall constitute a board of trustees who shall have the general care and management of the public school teachers' retirement fund created by this act. In the month following the passage of this act, and in the same month in each year thereafter, a meeting of all teachers, supervisors, superintendents and principals of the public schools of the city of Cohoes shall be called in said city by the superintendent of the schools of the city of Cohoes, at which time and place two school principals and three teachers, then in active service, shall be chosen by the assembled teachers, supervisors, superintendents and principals, to serve for a term of one year upon the board of trustees hereinbefore mentioned. The said board of trustees is empowered to make payment from said fund of the annuities granted in pursuance of this act; to take all necessary action in the premises and to make such by-laws, rules and regulations as may be necessary or proper; and to provide for the administration and investment of said fund as it may deem best, except that no part of said fund shall be invested in any manner otherwise than as the savings banks of the state are permitted by law to invest their funds. All vacancies occurring otherwise than by expiration of term in the office of either or any of the five members of the said board of trustees chosen from the teachers shall be filled until the end of the official year by the appointment of the said board of trustees. In case any trustee chosen or appointed as aforesaid shall cease to be such teacher or principal, such trusteeship shall at once become vacant.

§ 2. The public school teachers' retirement fund created by this act shall consist of the following moneys with interest or income therefrom, to wit:

(a) A sum of money equal to three per centum of the amount appropriated each year for the salaries of superintendents, supervisors, principals and teachers employed in the public schools of the city of Cohoes. Said sum shall be taken from the excise moneys to which the city of Cohoes may, from May first, nineteen hundred and eight, be entitled by virtue of the provisions of the liquor tax law of the state of New York, or from any other source that the board of aldermen may direct. Said sum shall be paid into the said pension fund and duly credited thereto by the proper officials of the said city.

(b) One per centum of the respective salaries paid to the superintendents, supervisors, principals and teachers employed in the

public schools of said city regularly; except that the amount deducted from any one salary shall not exceed ten dollars in any one year.

(c) All forfeitures and deductions of or from the salary of any superintendent, supervisor, principal or teacher employed in the public schools of said city for an absence from duty for any excuse; or in the case of the employment of a substitute, the excess of the salary of the regular teacher, principal, supervisor or superintendent over and above the amount paid to the substitute. Such forfeitures, deductions or excesses shall be paid into said pension fund and duly credited thereto by the proper officials of said city.

(d) All donations, legacies and gifts which shall be made to said fund, and all moneys which shall be obtained from other sources or by other means devised for the increase of said fund by said board of trustees or with their consent.

§ 3. The board of education of the city of Cohoes in auditing the accounts for salaries of the superintendents, principals, supervisors and teachers hereinbefore mentioned shall deduct from each and every account for salary said one per centum from each and every amount payable in the period covered by the said account, and shall certify the amount of said deductions and the names of the persons from whose salaries said deductions have been made; and a warrant for the total amount of the deductions so certified* shall be drawn payable to the city chamberlain, who shall retain the same subject to the disposal of said board of trustees, as hereinafter provided.

§ 4. The chamberlain of the city of Cohoes shall be the custodian of said fund and shall pay out the same only upon warrants signed by the president of the board of trustees of said fund and countersigned by such other officers as may be provided by the by-laws of said board of trustees; and no payment from said funds shall be made except upon resolution of said board passed by the concurrent vote of at least four members.

§ 5. The superintendent of schools of the said city, on the recommendation of said board of trustees, shall have the power to retire from service to become an annuitant under this act any supervisor, principal or teacher of the public schools of said city who shall request retirement and who shall have served in such capacity or capacities for an aggregate period of thirty years, provided that not less than fifteen years of such service shall have

* So in original.

been rendered in the public schools which are now or hereafter may be located within the boundaries of said city of Cohoes; or any such supervisor, principal or teacher who is mentally or physically incapacitated for the performance of duty, and who has been engaged in the work of teaching or supervising for a period aggregating twenty years, not less than fifteen of which shall have been in the public schools which are now or hereafter may be located within the boundaries of the said city. The board of education of the city of Cohoes, on the recommendation of said board of trustees, shall have the power to retire from service to become an annuitant under this act any superintendent of schools, on the same terms and conditions as are, in this section, made to apply to any supervisor, principal or teacher. Any person retired after twenty years of service, but with less than thirty years of service, shall receive an annuity which bears the same ratio to the annuity provided for a retirement after thirty years of service as the total number of years of service of such persons bears to thirty years.

§ 6. The said superintendent of schools of the city of Cohoes shall have power to retire from service to become an annuitant under this act any supervisor, principal or teacher who shall have served in such capacity or capacities for an aggregate period of forty years, provided that not less than fifteen of such years' service shall have been rendered in the public schools which are now or may hereafter be located in the boundaries of the city of Cohoes, and also provided that at the time of such retirement the retirement fund herein created shall be adequate to pay the full annuity to which such annuitant shall be entitled. The board of education of the city of Cohoes shall have the power to retire from service to become an annuitant under this act any superintendent of schools on the same terms and conditions as are, by this section, made to apply to any supervisor, principal or teacher.

§ 7. Annuities paid in pursuance of this act shall be one-half of the amount of the annual salary of the annuitant at the time of retirement from service, except as provided in section five of this act, and except that no annuity shall be more than five hundred dollars; but if the moneys at the disposal of the trustees of said fund be found at any time to be inadequate to fully carry out the provisions hereinabove mentioned, the trustees then shall distribute said moneys pro rata to the persons entitled to participate in said fund, and such distribution shall be in full of all annuities then due.

§ 8. No person who shall retire or be retired to become an annuitant under this act shall be entitled to such annuity unless and until such person shall have contributed to the teachers' retirement fund in pursuance of subdivision (b) of section two of this act, or in cash, or by accumulation of the annuity to which such person would otherwise be entitled, or by either or all of such methods, an amount equal to at least twenty per centum of his or her annual salary at the time of retirement. All annuities provided for by this act shall be payable in monthly instalments.

§ 9. No annuity shall be paid from the teachers' retirement fund until September first, nineteen hundred and eight; but any person duly qualified who shall retire or be retired from service before that time, and after this act shall take effect, shall not be deemed to have forfeited the right to become an annuitant under the provisions of this act.

§ 10. If at any time a superintendent, supervisor, principal or teacher shall be dismissed for cause before the time when he or she would, under the provisions of this act, be entitled to an annuity, then said person shall be paid back, without interest, all the money which may have been deducted from his or her salary in pursuance of subdivision (b) of section two of this act.

§ 11. This act shall take effect immediately.

Chap. 333.

AN ACT to amend chapter two hundred and thirty-nine of the laws of eighteen hundred and fifty-nine entitled "An act in relation to Grosvenor library of the city of Buffalo," as amended by chapter one hundred and sixty of the laws of eighteen hundred and sixty-one, with relation to the powers of the trustees of said library.

Became a law, May 19, 1908, with the approval of the Governor. Passed, three-fifths being present.

Accepted by the City.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section two of chapter two hundred and thirty-nine of the laws of eighteen hundred and fifty-nine, entitled "An act

in relation to Grosvenor library of the city of Buffalo," as amended by chapter one hundred and sixty of the laws of eighteen hundred and sixty-one, is hereby amended so as to read as follows:

§ 2. The said library shall be known as the Grosvenor library and the affairs of said library shall be managed by three trustees to be appointed by the common council of said city, upon the nomination of the mayor thereof; they shall hold their office for the term of five years, and until their successors are appointed, and shall not receive any compensation; they shall take the charge and possession of the money mentioned in the first section, and of all other funds of said library, and shall carry out and execute the intention of the said testator; they shall not furnish any of the books belonging to said library to be used out of the library building or said library; they may make all proper rules and regulations for the management of the said library, and the protection of its property, and impose reasonable penalties for the violation thereof. No instrument, receipt, discharge or other act shall be valid unless done by all of the trustees then in office or under an authority, in writing, signed by all of them. They may transact the affairs and business of the said library, take and hold real estate necessary for the use of said library, not to exceed in value two hundred thousand dollars, or which may be given to said library, take bonds and mortgages and obligations and other securities, not to exceed two hundred thousand dollars, and may sell, dispose of and give acquittances, releases and discharges thereof, and invest and reinvest the proceeds thereof; and with the consent of the supreme court or the county court, obtained in the manner provided by title two of chapter twenty-three of the code of civil procedure, said trustees may sell and convey any real estate which they may determine to be not necessary for the use of the said library, and may maintain actions in the name of "the trustees of the Grosvenor library."

§ 2. This act shall take effect immediately.

Chap. 334.

AN ACT to amend subdivision six of section seventeen of chapter one hundred and five of the laws of eighteen hundred and ninety-one, entitled "An act to revise the charter of the city of Buffalo," as amended by chapter thirty-one of the laws of nineteen hundred and four, in relation to the licensing and regulation of dance halls, dancing schools and entertainments of like character.

Became a law, May 19, 1908, with the approval of the Governor. Passed, three-fifths being present.

Accepted by the City.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision six of section seventeen of chapter one hundred and five of the laws of eighteen hundred and ninety-one, entitled "An act to revise the charter of the city of Buffalo," as amended by chapter thirty-one of the laws of nineteen hundred and four, is hereby amended so as to read as follows:

(6) To license and regulate cartmen, porters, owners and drivers of all vehicles used for the transportation of passengers or property for hire, and to fix the rates of compensation to be taken by them; to license and regulate plumbers, auctioneers, butchers, hawkers, peddlers, junk dealers, dance halls, dancing schools and other entertainments of like character, pawnbrokers and the business of pawnbrokerage, and to fix the rates to be charged by pawnbrokers in their business; to regulate the running at large of dogs, and to license the same; to prohibit, license or regulate public billiard rooms, bowling alleys, runners or solicitors for houses of entertainment, railroads, vessels and vehicles, and the exhibition of shows of every kind, and of theatrical representations; and to prescribe the terms and conditions on which licenses shall be granted; to impose and levy a tax upon the owner or owners of hackney carriages, sleighs, cabs, coupes, private carriages, barouches, buggies, wagons, omnibuses, carts, drays, baggage wagons, automobiles, motor vehicles, bicycles, tricycles and similar vehicles, or any other vehicle, for the privilege of operating, driving or propelling the same along or upon the public streets, avenues, highways and other public places in the

city of Buffalo; to fix the amount of such tax, and to prohibit the use of the public streets, highways, avenues or other public places of the city by the owner or owners or driver or drivers of any such vehicle in the event of any tax so imposed not being paid, and to fix and provide such penalty or penalties as it shall deem proper for a violation of any such ordinance.

§ 2. This act shall take effect immediately.

Chap. 335.

AN ACT to authorize the city of Buffalo to issue its bonds for the purpose of placing under ground the electrical wires of the police and fire departments of said city.

Became a law, May 19, 1908, with the approval of the Governor. Passed, three-fifths being present.

Accepted by the City.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. It shall be lawful for the city of Buffalo to issue its bonds in the sum of fifty thousand dollars for the purpose of raising money to defray the expense of placing under ground the electrical wires of the police and fire departments of said city; such bonds to bear interest at a rate not exceeding four per centum per annum, payable semi-annually at the office of the comptroller of the city of Buffalo or at the Gallatin national bank in the city of New York, as the purchaser may elect, the principal to be payable at the same place; one-tenth thereof to be payable at the end of each successive year thereafter until the whole sum shall have been paid. Such bonds shall be issued from time to time by the mayor and comptroller under the city seal, as may be ordered by the common council, and shall be sold or awarded as provided in section four hundred and ninety-two of the charter. The common council shall make provision in the general fund estimates of said city for the payment of the interest on and the principal of said bonds as the same shall become due.

§ 2. This act shall take effect immediately.

Chap. 336.

AN ACT to amend chapter one hundred and five of the laws of eighteen hundred and ninety-one, entitled "An act to revise the charter of the city of Buffalo," in relation to the department of public instruction in such city.

Became a law, May 19, 1908, with the approval of the Governor. Passed, three-fifths being present.

Accepted by the City.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section three hundred and thirty-four of chapter one hundred and five of the laws of eighteen hundred and ninety-one, entitled "An act to revise the charter of the city of Buffalo," as amended by chapter one hundred and twenty-seven of the laws of nineteen hundred and one, is hereby amended to read as follows:

§ 334. The examiners appointed under this act shall hold at least one stated meeting in each month. At the first meeting of the examiners, which must be held within fifteen days after their appointment, and annually thereafter, the examiners shall choose one of their number to act, and be known as chairman, who shall preside at all sessions of the board. In case of the absence or inability of the chairman, the remaining examiners shall elect one of their number as chairman pro tempore to preside at any session. Three of their number shall constitute a quorum for the transaction of business. They shall also at their first session, held as herein provided, appoint a secretary who shall perform such duties as may be designated by the board and who shall continue in office during the pleasure of the board. It shall be the duty of the board at the first monthly meeting of each school term to assign certain schools to the different members of the board for visitation and inspection during said school term, and to change the said assignments each term, to the end that all the schools shall be visited and inspected by the board at least once in each term.

§ 2. Section three hundred and thirty-seven of such chapter, as amended by chapter six hundred and twenty-seven of the laws of eighteen hundred and ninety-nine, is hereby amended to read as follows:

§ 337. The examiners shall hold stated public examinations at such times as they may designate and at least twice in a year, of all the applicants who have filed their applications with the secretary, as hereinbefore provided. They shall cause due notice of the time and place of holding such examinations and the grades of teachers to be examined, to be published twice a week for four weeks, commencing six weeks prior to each examination, in three of the daily newspapers of the city, and no examination shall be held by them unless so noticed. At the time of holding such examinations, they may first examine the applicants orally, for the purpose of ascertaining their physical and moral fitness for teaching. The board shall have power to determine what qualifications shall be required of applicants who desire to try the examinations for teachers' positions in the high school and special teachers' grades. No applicant in the principals' or in the assistant teachers' grades shall be admitted to the written examination hereinafter provided for, unless he or she has had (a) successful experience in teaching for at least three years, or, in lieu thereof was (b) graduated from a high school or academy having a course of study of not less than three years, said course being approved by the board of school examiners of the city of Buffalo, or was graduated from some institution of learning of equal or higher rank, approved by said board, and who, subsequent to such graduation in either case, was graduated from a school or class for professional training of teachers, having a course of study approved by said board, or (c) who was graduated from a normal school for the training of teachers, approved by said board.

§ 3. Section three hundred and thirty-nine of such chapter is hereby amended to read as follows:

§ 339. The candidates in the written examination in the high school teachers' grade shall be required to pass at least seventy per centum in each subject included within the group of subjects as shall be designated by the superintendent of education of the city of Buffalo. The candidates in the principal's, assistant teachers', and special grades shall be required to attain a general average in all subjects of at least seventy per centum. The board of school examiners shall have power to fix a standard of each subject in these grades. The secretary shall prepare a list of all those who have passed according to the regulations above mentioned, and he and the chairman shall certify such list to the superintendent, stat-

ing for which grade of teachers they were examined, and shall furnish to each applicant, who has so passed, a certificate signed by him and the chairman, stating the grade of teachers for which the applicant was examined, and that, in the judgment of the examiners, the person so examined is a person of good moral character, and qualified to teach in such grade. This list shall be kept by the superintendent as a list of eligible candidates for three years from which to select teachers, and no teachers not employed in the public schools at the time when this act shall take effect shall thereafter be appointed or employed as a teacher in such schools, unless he or she has undergone the examination herein provided for, and holds such a certificate. In the employment of teachers, under this act, preference shall be given to residents of Buffalo.

§ 4. This act shall take effect immediately.

Chap. 337.

AN ACT to amend chapter seven hundred and fifty-one of the laws of nineteen hundred and seven, entitled "An act to revise the charter of the city of Binghamton," relative to issuing municipal bonds.

Became a law, May 19, 1908, with the approval of the Governor. Passed, three-fifths being present.

Accepted by the City.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section eighty-two of chapter seven hundred and fifty-one of the laws of nineteen hundred and seven, entitled "An act to revise the charter of the city of Binghamton," is hereby amended to read as follows:

§ 82. **Issue of bonds.**— Bonds or other obligations of the city shall be signed by the mayor and the treasurer, and countersigned by the comptroller. They shall be made payable at such times, within thirty-five years after their respective issues, as the common council in such ordinances shall direct, and may be made payable in equal annual installments. Such bonds shall be issued in sums of not exceeding five thousand dollars each, with interest

payable semi-annually, at a rate fixed by the common council not exceeding the legal rate of interest. They shall be sold under the direction of the board of estimate and apportionment, on sealed proposals or at public auction, upon notice published in the official newspaper, and in such other newspaper as the board of estimate and apportionment may determine, for at least three weeks prior to the time of such sale or the opening of such proposals. The board shall award the same to the highest bidders at not less than par and accrued interest. The bonds shall be consecutively numbered from one to the highest number issued, and the treasurer shall keep a record of the number of each bond or obligation, its date, amount, rate of interest, when and where payable, and the purchaser thereof or the person to whom they are issued.

§ 2. This act shall take effect immediately.

Chap. 338.

AN ACT to amend chapter seven hundred and fifty-one of the laws of nineteen hundred and seven, entitled "An act to revise the charter of the city of Binghamton," relative to city boundaries.

Became a law, May 19, 1908, with the approval of the Governor. Passed, three-fifths being present.

Accepted by the City.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section two of chapter seven hundred and fifty-one of the laws of nineteen hundred and seven, entitled "An act to revise the charter of the city of Binghamton," is hereby amended so as to read as follows:

§ 2. **City boundaries.**— The territory in the county of Broome included within the following boundaries shall constitute the city of Binghamton: Commencing at the southeast corner of lot twenty-three in Bingham's patent; running thence northerly along the east line of said lot to the north line of said patent; thence westerly along said north line to a point in said line five hundred feet east from the northwest corner of lot twenty-five in said patent; thence northwesterly in a straight line to the intersection

of the east line of the lands of the Albany and Susquehanna railroad company with the dividing line between lots two and three in Clinton and Melcher's patent, being the southeast corner of the village of Port Dickinson; thence westerly along said dividing line to the west bank of the Chenango river; thence southerly along said west bank to the center line of Bevier street extended to said west bank of said river; thence westerly and parallel to the north line of Bingham's patent about three thousand and seventy feet to an iron set in the ground in the east line of Ely Park, so-called; thence north five degrees seventeen minutes west, one hundred and ninety-four feet, more or less, to an iron set in the ground; thence south eighty-five degrees two minutes east, seven hundred and twelve and fifty one-hundredths feet to an iron set in the ground; thence north seven degrees eighteen minutes east, five hundred and fourteen feet to a twin oak; thence north eleven degrees two minutes west, three hundred and seventy-four feet to a rock oak; thence north thirty-one degrees sixteen minutes west, two hundred and ninety-four and thirty one-hundredths feet to an iron set in the ground; thence north eighty-five degrees thirteen minutes west, one hundred and thirty-five feet to an iron set in the ground; thence north twenty-eight degrees twenty-minutes west, nine hundred and sixty-nine feet to an iron set in the ground; thence north eighty-four degrees thirty-seven minutes west, thirty-two hundred and thirty feet to an iron set in the ground; thence south seven degrees eleven minutes west, seven hundred and eighty-seven feet to an iron set in the ground; thence south eighty-four degrees nineteen minutes east, twenty-two hundred and sixty-six feet to an iron set in the ground; thence south twelve degrees thirty minutes west, eight hundred feet to an iron set in the ground; thence south eleven degrees twenty-six minutes west, five hundred and forty-two feet, more or less, to an iron set in the ground in the extension westerly of the aforesaid line described as parallel to the north line of Bingham's patent; thence westerly and parallel to the north line of Bingham's patent to the west line of lot thirty-two in the Chenango township, being the east line of the town of Union; thence, following said Union line, southerly along the west line of said lot thirty-two to the north line of lot thirty-four in Bingham's patent; thence westerly along the north line of said lot to the northwest corner thereof; thence southerly along the west line of said lot thirty-four, and the same line continued southerly across the Susquehanna river to the south line of Bingham's

patent; thence easterly along said south line to its intersection with the west line of lot thirty-one in Bingham's patent extended southerly; thence southerly along said line so extended forty-seven hundred feet; thence easterly and parallel to the south line of Bingham's patent to the east line of lot two in Sidney or Cooper's patent; thence northerly along said east line to the south line of Bingham's patent; thence easterly along said south line to the southeast corner of lot thirteen in Bingham's patent; thence northeasterly to the northeast corner of lot nine in said patent, and thence diagonally across the Susquehanna river to the place of beginning, reference being had to the map of Bingham's patent recorded in the Broome county clerk's office in book of deeds number four, at page sixty-seven.

§ 2. This act shall take effect immediately.

Chap. 339.

AN ACT to amend the public health law, relative to compensation of local health officers.

Became a law, May 19, 1908, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section twenty-one of chapter six hundred and sixty-one of the laws of eighteen hundred and ninety-three, entitled "An act in relation to the public health, constituting chapter twenty-five of the general laws," as amended by chapters two hundred and three and nine hundred and twenty-eight of the laws of eighteen hundred and ninety-five, chapters two hundred and twenty-two and three hundred and eighty-three of the laws of nineteen hundred and three, chapter thirty-nine of the laws of nineteen hundred and six and chapter one hundred and eighty-nine of the laws of nineteen hundred and seven, is hereby amended to read as follows:

§ 21. **General powers and duties of local boards of health.**— Every such local board of health shall meet at stated intervals to be fixed by it, in the municipality. The presiding officer of every such board may call special meetings thereof where in his

judgment the protection of the public health of the municipality requires it, and he shall call such meeting upon the petition of at least twenty-five residents thereof, of full age, setting forth the necessity of such meeting. Every such local board shall prescribe the duties and powers of the local health officer, who shall be its chief executive officer, and direct him in the performance of his duties, and fix his compensation. In addition to his compensation so fixed, the board of health must allow the actual and reasonable expenses of said health officer in going to, attending and returning from, the annual sanitary conference of health officers, or equivalent meeting, held yearly within the state, and whenever the services rendered by its health officer shall include the care of small-pox, the board of health shall allow or whenever such services are extraordinary, by reason of infectious disease or otherwise, they may in their discretion allow to him such further sum in addition to said fixed compensation as shall be adequate for such services, audited by the town board of a town or by the board of trustees of a village, which said expenses and said additional compensation shall be a charge upon and paid by the municipality as provided in section thirty of this act. Every such local board shall make and publish from time to time all such orders and regulations as they may deem necessary and proper for the preservation of life and health, and the execution and enforcement of the public health law in the municipality. It shall make without publication thereof, such orders and regulations for the suppression of nuisances, and concerning all other matters in its judgment detrimental to the public health in special or individual cases, not of general application, and serve copies thereof upon the owner or occupant of any premises whereon such nuisances or other matters may exist, or upon which may exist the cause of other nuisances to other premises, or cause the same to be conspicuously posted thereon. It may employ such persons as shall be necessary to enable it to carry into effect its orders and regulations, and fix their compensation. It may issue subpœnas, compel the attendance of witnesses, administer oaths to witnesses and compel them to testify, and for such purposes it shall have the same powers as a justice of the peace of the state in a civil action of which he has jurisdiction. It may designate by resolution one of its members to sign and issue such subpœnas. No subpœna shall be served outside the jurisdiction of the board issuing it, and no witness shall be interrogated or com-

pelled to testify upon matters not related to the public health. It may issue warrants to any constable or policeman of the municipality to apprehend and remove such persons as cannot otherwise be subjected to its orders or regulations, and a warrant to the sheriff of the county to bring to its aid the power of the county whenever it shall be necessary to do so. Every warrant shall be forthwith executed by the officer to whom directed, who shall have the same powers and be subject to the same duties in the execution thereof, as if it had been duly issued out of a court of record of the state. Every such local board may prescribe and impose penalties for the violation of or failure to comply with any of its orders or regulations, not exceeding one hundred dollars for a single violation or failure, to be sued for and recovered by it in the name and for the benefit of the municipality; and to maintain actions in any court of competent jurisdiction to restrain by injunction such violations, or otherwise to enforce such orders and regulations. Whenever such local board of health in any incorporated village shall deem the sewers of such village insufficient to properly and safely sewer such village, and protect the public health, it shall certify such fact in writing to the board of trustees of such village, stating and recommending what additions or alterations should in the judgment of such board of health be made with its reasons therefor, and thereupon such board of trustees shall immediately convene and consider such recommendations, and if approved by such board of trustees, the same shall be certified to the state commissioner of health for his approval, and if such recommendations shall be approved by the state commissioner of health, it shall be the duty of the board of trustees or other board of such village having jurisdiction of the construction of sewers therein, if there be such a board, whether sufficient funds shall be on hand for such purpose or not to forthwith make such additions to or alterations in the sewers of such village and execute such recommendations, and the expenses thereof shall be paid for wholly by said village in the same manner as other village expenses are paid or by an assessment of the whole amount against the property benefited, or partly by the village and partly by an assessment against the property benefited, as the board of trustees of such village shall by resolution determine. If the board of trustees shall determine that such expenses shall be paid partly by the village and partly by an assessment against the property benefited, as authorized by this section, it shall in

the resolution making such determination fix the proportion of such expense to be borne by each, and the proportion thereof to be raised by an assessment against the property benefited shall be assessed and collected in the manner provided by the village law for the assessment and collection of sewer assessments. Said village is hereby authorized to raise such sum as may be necessary for the payment of the expenses incurred, which are a village charge, if any, as herein provided, in addition to the amount such village is now authorized to raise by law for corporation purposes, and such board shall have the right to acquire such lands, rights of way, or other easements, by gift, or purchase, or in case the same cannot be acquired by purchase may acquire the same by condemnation in the manner provided by law.

§ 2. This act shall take effect immediately.

Chap. 340.

AN ACT to amend title six of chapter two hundred and three of the laws of nineteen hundred and seven, entitled "An act to revise and amend the charter of the city of Newburgh, being chapter five hundred and forty-one of the laws of eighteen hundred and sixty-five, and the several acts amendatory thereof and supplemental thereto."

Became a law, May 19, 1908, with the approval of the Governor. Passed, three-fifths being present.

Accepted by the City.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Title six of chapter two hundred and three of the laws of nineteen hundred and seven, entitled "An act to revise and amend the charter of the city of Newburgh, being chapter five hundred and forty-one of the laws of eighteen hundred and sixty-five, and the several acts amendatory thereof and supplemental thereto," is hereby amended by adding at the bottom thereof, the following:

§ 16. Whenever application shall be made to the city council, by the person or persons owning at least one-half of the lineal

foot frontage fronting on any street or portion of a street, requesting that such street or portion thereof be sprinkled, pursuant to this title, the city council shall cause said street or portion of street to be sprinkled in accordance with such application.

§ 17. Whenever the said city council shall cause such street or portion of street to be sprinkled, pursuant to application or renewal duly filed, the expense of the sprinkling of such street or portion of street, shall be ascertained by the city council and they shall fix the limit of the street or portion of street so sprinkled, beyond which the assessment thereof shall not extend; they shall enter the amount of such expenses and the limit of such street or portion of street, in the report of their proceedings and shall then cause a warrant to be issued to the assessors of said city, directing them to assess the said amount within the limit fixed by them and upon such of the real estate fronting upon such street or portion of street so sprinkled.

§ 18. The said assessors shall thereupon assess the amount so specified in said warrant as therein directed, pursuant to the provisions of section thirteen of title six, relative to the levying of assessments, and the amount shall then be collected in the manner hereinbefore provided for the collection of taxes for city purposes. And each assessment shall be a lien on the premises on which it is assessed, and may be collected by the sale of such premises, and all the provisions of the fifth title of this act in relation to the collection of taxes, shall apply to the collection of such assessment and to sales thereof; and such assessment when collected shall be paid to the treasurer of the city.

§ 19. All applications for the sprinkling of any street or portion of street shall be renewed annually.

§ 2. This act shall take effect immediately.

Chap. 341.

AN ACT to amend chapter one hundred and eighty-two of the laws of eighteen hundred and ninety-two, entitled "An act to incorporate the city of Mount Vernon," and acts amendatory thereof, in relation to the city court of Mount Vernon, the powers, jurisdiction and compensation of the acting city judge, the drawing, summoning and attendance of jurors for service in said court, and the compensation and duties of the clerk of said court.

Became a law, May 19, 1908, with the approval of the Governor. Passed, three-fifths being present.

Accepted by the City.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section sixty-three of chapter one hundred and eighty-two of the laws of eighteen hundred and ninety-two, entitled "An act to incorporate the city of Mount Vernon," as amended by chapter two hundred and two of the laws of nineteen hundred and one, is hereby amended so as to read as follows:

§ 63. In case of sickness, absence from the city, disability or inability of the city judge to act, his powers, duties and jurisdiction in criminal matters or proceedings and in such proceedings in civil actions or special proceedings as may be transacted by the city judge out of court and in chambers only, are hereby conferred and imposed upon a citizen residing in the city of Mount Vernon, who may be designated by the mayor of said city, as hereinafter provided. And it shall be the duty of the mayor of said city each year to designate an attorney and counsellor-at-law, who shall be a resident of and practicing law in said city, and have his office therein, who shall act in criminal matters or proceedings and in such proceedings in civil actions or special proceedings as may be transacted by the city judge out of court and chambers only in the absence, disability or inability of the city judge to act therein.

§ 2. Section sixty-four of chapter one hundred and eighty-two of the laws of eighteen hundred and ninety-two, entitled "An act to incorporate the city of Mount Vernon," is hereby amended so as to read as follows:

§ 64. If any warrant issued by the city judge shall be returned during his absence from the city or during his inability to attend to the duties of his office, any further proceeding may be had on such warrant before the acting city judge designated as hereinbefore provided; and such acting city judge having once obtained jurisdiction over any matter may retain it and proceed to the determination thereof. The said acting city judge shall receive an annual salary payable in equal monthly instalments, the amount of which salary shall be fixed by the common council.

§ 3. Section eighty-eight of said chapter one hundred and eighty-two of the laws of eighteen hundred and ninety-two as amended by chapter six hundred and ninety-two of the laws of eighteen hundred and ninety-six is hereby amended so as to read as follows:

§ 88. When the attendance of jurors in said city court shall be required the said city judge shall publicly draw, from said box, the names of seventy-five of said jurors, in the presence of the clerk of the city court, and such others as may be in attendance, and the clerk of the city court shall enter the names thereof upon the minutes of said city court and the ballots drawn shall be destroyed.

§ 4. Section eighty-nine of said chapter one hundred and eighty-two of the laws of eighteen hundred and ninety-two is hereby amended so as to read as follows:

§ 89. The said city judge shall thereupon immediately issue his order in writing, either to the sheriff of the county of Westchester, or to the marshal of the city court of Mount Vernon, directing him to summon the persons so drawn to attend at the city court, at the time and place to be therein named, to try such cases as shall be given them in charge. Any action for which a jury shall have been demanded shall be tried before a jury of twelve men, to be selected from those so summoned, who attend in manner aforesaid, who shall be drawn therefor in the same manner as juries are drawn in other courts of record. Such jurors so summoned shall be required to attend for the trial of all actions in said court upon such days, during the term of said court for which they are so summoned, as the city judge may direct. The city judge may in his discretion, on application of any juror, excuse him from the whole or part of the time of service required of him and may also change the time of service of a juror to a later day during the same, or a subsequent term of the court.

Each juror whose time of service is changed to a day certain, must attend at the opening of court on that day, and thereafter until discharged, without further notice. If he fails so to do, he is liable to the same punishment as if he had been personally notified by the sheriff of said county of Westchester or the marshal of the city court of Mount Vernon to attend the term, and to be present on that day.

§ 5. Section one hundred and two of chapter one hundred and eighty-two of the laws of eighteen hundred and ninety-two as amended by chapter seventy-one of the laws of nineteen hundred and six is hereby amended so as to read as follows:

§ 102. The clerk of the city court shall be appointed by the city judge, his appointment in writing to be filed with the city clerk, and shall hold his office during the pleasure of the city judge. The clerk of the said court shall also be clerk of the court of special sessions in the city of Mount Vernon. His salary shall be such a sum per annum, payable in equal monthly instalments, as the common council shall fix and determine.

§ 6. This act shall take effect immediately.

Chap. 342.

AN ACT to amend chapter one hundred and eighty-two of the laws of eighteen hundred and ninety-two, entitled "An act to incorporate the city of Mount Vernon," relative to the appointment of a deputy commissioner of public works.

Became a law, May 19, 1908, with the approval of the Governor. Passed, three-fifths being present.

Accepted by the City.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Chapter one hundred and eighty-two of the laws of eighteen hundred and ninety-two, entitled "An act to incorporate the city of Mount Vernon," is hereby amended by inserting therein a new section to be known as section one hundred and twenty-seven-a thereof, to read as follows:

§ 127-a. The commissioner of public works shall appoint a deputy commissioner of public works who shall possess the powers,

perform the duties of and act as commissioner of public works during any vacancy in the office of commissioner of public works, or while the commissioner of public works is absent from the city, or is unable to act; said deputy commissioner of public works shall at all other times perform such public work as may be required of him by said commissioner of public works. The said deputy commissioner of public works shall before entering upon the discharge of the duties of his office, make, execute and file with the city clerk a bond to the city of Mount Vernon in a penal sum to be fixed by said common council, and with two or more sureties who shall be freeholders within and residents of said city, which bond shall be approved by the common council and shall be conditioned that he will faithfully discharge the duties of his office and see that all work done under his supervision is faithfully performed; said bond must be duly acknowledged, and the sureties named therein must justify in at least double the amount thereof before the same can be approved and filed. The said deputy commissioner of public works shall receive an annual salary of such sum as the common council shall fix, payable in equal monthly installments.

§ 2. This act shall take effect immediately.

Chap. 343.

AN ACT authorizing and empowering the city of Mount Vernon to construct a sewerage disposal works and to issue bonds for the purpose of paying for the same.

Became a law, May 19, 1908, with the approval of the Governor. Passed, three-fifths being present.

Accepted by the City.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The common council of the city of Mount Vernon is hereby authorized and empowered to borrow upon the faith and credit of the said city of Mount Vernon by the issuing of bonds of said city, such sum or sums not exceeding in the aggregate one hundred and fifty thousand dollars, as may in its judgment be necessary for the purpose of constructing a sewerage disposal works on land already owned by it situate in the city of Mount Vernon.

§ 2. The said bonds shall be due and payable at such times as the common council of the said city shall determine, but not more than twenty thousand dollars thereof shall mature in any one year; and said bonds shall bear interest at a rate not exceeding five per centum per annum as the said common council by a majority vote of all its members shall determine. Said bonds or any part thereof may be sold by the said common council in such manner as the common council may deem best, at not less than the par value thereof with accrued interest, or temporary loans may be obtained upon the same. The said bonds shall be exempt from taxation.

§ 3. The amount necessary to be raised to pay the interest and principal which shall become due during the ensuing years upon any bonds so issued by the said common council under the provisions of this act shall each year be included by the said common council in the annual city taxes, and the said common council shall levy and collect the same in each year in the same manner as the city taxes are by law to be levied and collected. The said amount shall be paid to the city treasurer of said city of Mount Vernon, and shall be used to pay the principal and interest on said bonds as the same shall fall due.

§ 4. To secure the payment of said loan the said common council is hereby authorized to make, execute and deliver bonds of said city of Mount Vernon which shall be signed by the mayor and city clerk and countersigned by the comptroller, and sealed with the city seal, and shall be of such amounts as the said common council shall determine. The said bonds shall be denominated "Sewerage Disposal Works Bonds of the city of Mount Vernon" and shall be numbered consecutively as issued, and a record of said bonds, showing the number, amount, rate of interest and the time when payable shall be kept by the comptroller of the said city of Mount Vernon.

§ 5. The credit of the said city of Mount Vernon is hereby pledged for the payment of such bonds as may be issued by authority of this act.

§ 6. The said common council is hereby authorized and empowered with the proceeds of the sale of said bonds or any part thereof, to construct a sewerage disposal works in said city upon the land now owned by it, and to erect all necessary buildings and appurtenances in connection therewith as the common council may determine.

§ 7. This act shall take effect immediately.

Chap. 344.

AN ACT to amend chapter seven hundred and forty-seven of the laws of eighteen hundred and ninety-six, entitled "An act to revise and consolidate the several acts in relation to the city of Kingston, to revise the charter of said city, and to establish a city court therein, and define its jurisdiction and powers," relative to the jurisdiction of the recorder of said city; making the crime of disorderly conduct a misdemeanor and fixing the punishment therefor.

Became a law, May 19, 1908, with the approval of the Governor. Passed, three-fifths being present.

Accepted by the City.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The captions of title five of chapter seven hundred and forty-seven of the laws of eighteen hundred and ninety-six, entitled "An act to revise and consolidate the several acts in relation to the city of Kingston, to revise the charter of said city, and to establish a city court therein and define its jurisdiction and powers," are hereby amended to read as follows:

Section 46. General powers and duty.
47. Executing process and warrants.
48. Qualifications and salary.
49. Account to be kept.
50. Disposition of fines and penalties.
51. Disorderly conduct.
52. Duty of police officers.
53. Acting recorder.

§ 2. Section forty-six of title five of said act is hereby amended to read as follows:

§ 46. The recorder shall possess all the jurisdiction, power and authority in all criminal proceedings, vested in justices of the peace of towns, together with such other jurisdiction, authority, powers and duties as are conferred upon him by this act. He may hold a court of special sessions and shall have the power and jurisdiction conferred upon courts of special sessions by section fifty-six of the code of criminal procedure. He shall have exclusive jurisdiction to hear, try and determine all criminal cases and

proceedings arising under the charter, by-laws or ordinances of said city summarily and without the intervention of a jury; and all judgments of convictions rendered by him shall be enforced in the same manner as in courts of special sessions in criminal cases.

§ 3. Section fifty-one of title five of said act is hereby amended to read as follows:

§ 51. Any person who shall, within the city of Kingston, by any offensive or disorderly act or language, annoy or interfere with any person or persons in any place, or with the passengers of any public stage, railroad car, ferry boat or other public conveyance, or who shall disturb or offend the occupants of such stage, car, boat or conveyance by any disorderly act, language or display, although such act, conduct or display may not amount to assault and battery; or any person who, within said city, willfully and wrongfully commits any act which seriously injures the person or property of another, or which seriously disturbs or endangers the public peace or health, or which openly outrages public decency; and any idle person, within said city, who, not having visible means to maintain himself, lives without employment; or any person who, within said city, wanders about and begs, or goes about from door to door, or places himself in the streets, highways, passages or public places, without the written permission of the mayor of the city, to beg and receive alms; or any person who, within said city, has no visible occupation, profession or business to maintain himself by, but who, for the most part, supports himself by gaming or crime, or by the avails of prostitution; or any person who, within said city, is a common prostitute; or any person who engages in quarreling within said city in any public park, street, lane or alley, or in any public place, or in any place within public view or hearing; or any person who shall, within said city, make indecent gestures or exhibitions of himself or herself in public view, or shall, in any public place, or in any place within public view or hearing, within said city, publicly use indecent, foul or profane words or opprobrious or provoking language or outcries, tending to a breach of the peace, or utter threats of unlawful violence, or shall make any unusual noise or disturbance of the public peace or quiet; or shall within said city, recklessly and without necessity discharge and fire off firearms in the day or night time, or knowingly give a false

alarm of fire; or shall within said city, alone, or with others, not using the public ways of said city to pass and repass, lounge and loiter about, standing upon or occupying the sidewalks or any public place in front of or along any premises or buildings, public or private, not owned or occupied by such person, or shall be without any right, in or about the approaches, passages, entrance, hall or stairway of any building used for public assemblages or public resort within said city, to the annoyance or impediment of persons lawfully passing or repassing, or of the property owners, and shall refuse, after directions by any officer or citizen, to pass along or disperse from said place or places; or shall disturb or interrupt any public meeting, school, theater, concert, exhibition or assemblage, within said city, without lawful authority; or shall be found in the night time lurking suspiciously about any place within said city and shall refuse, upon demand of any policeman or watchman, to give an account of himself or herself; or shall carry in any public place within said city any loaded pistol, revolver or other firearm, concealed; or any child, under the age of fourteen years, who shall be found wandering around within said city, late at night, unaccompanied by parent or guardian; or any person who, within said city, shall maliciously or unlawfully open any barn, stable or inclosure, and take away therefrom, or from any other place within said city, any horse, team, harness, carriage or other vehicle of another, under circumstances not amounting to larceny or a felony; or shall, within said city, being a licensed hackman, cartman, owner or driver of any omnibus, or porter, knowingly violate any lawful regulation of the common council of said city relating to such persons or vehicles; or shall be found engaged in any public place aforesaid, within said city, in throwing stones or other missiles and thereby endangering persons or property; or shall maliciously injure any street or public gas or electric lamp, lamp-post, post, pole, wire, gas pipe, main or fire alarm apparatus or any city water pipe, main, hydrant, hose or any works or apparatus in any street or public place, within said city, for the transmission of heat, light, water, power or telegraph or telephone messages, or any street signs put up by the authority of the common council of said city; or shall be found naked, or with persons improperly exposed, bathing in any of the canals, basins streams, races, ponds, creeks or waters within said city in any public place, between the hours of four o'clock in the morning

and nine o'clock in the evening, is guilty of the crime of disorderly conduct, which is hereby declared to be a misdemeanor within said city of Kingston, and shall be punished by a fine of not more than fifty dollars, or by imprisonment by* not more than six months, or by both such fine and imprisonment.

§ 4. This act shall take effect immediately.

Chap. 345.

AN ACT to authorize the city of Schenectady to enter into an agreement with the New York Central and Hudson River Railroad Company and the Schenectady Railway Company for the construction at the joint expense of such companies and the city of a bridge over Villa road in such city, and authorizing the city to issue and sell its bonds for the purpose of paying its proportionate share of the expense of such construction.

Became a law, May 19, 1908, with the approval of the Governor. Passed, three-fifths being present.

Accepted by the City.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The common council of the city of Schenectady is hereby authorized to enter into an agreement with the New York Central and Hudson River Railroad Company and the Schenectady Railway Company for the construction at the joint expense of such companies and the city of a bridge over a street known as Villa road in such city along the line of the New York Central and Hudson River Railroad Company at an expense not exceeding seventy-five thousand dollars.

§ 2. The common council of the city of Schenectady is hereby authorized to issue and sell the bonds of said city upon its faith and credit and in its corporate name, to an amount not exceeding twenty-five thousand dollars, the proceeds of which shall be applied to the payment of the said city's one-third proportionate share of the cost and expense incurred in constructing such bridge.

§ 3. Such bonds shall be duly sealed and signed in the name of said city by the mayor and treasurer and countersigned by the

* So in original.

comptroller. Said bonds shall be a funded debt of the city and shall be issued in such amounts and shall fall due at such time that the principal of the same shall be fully paid in twenty annual payments, the last of which shall become due at the end of twenty years after its issue. Said bonds shall bear interest at a rate not to exceed six per centum per annum. Provision shall be made for the payment of the bonds in the year in which each shall be due by insertion of the proper sum in the annual estimates for the year in question. Said bonds shall be advertised for sale and sold by the comptroller as required by law.

§ 4. The proceeds of the sale of said bonds, together with any premium thereon, shall, after deducting the costs and expenses of the sale, and expenses incidental thereto, be paid into the city treasury and credited to the Villa road bridge fund of said city, and shall be applied to the payment of said city's aforementioned proportionate share of the costs and expenses incurred in the construction of said bridge, and the said city is hereby required to pay such proportionate share in the proportion which may hereafter be adjusted, in accordance with the agreement aforesaid, between said city and the railroad companies interested, but such proportionate share shall not exceed one-third of the cost and expense of the construction of said bridge. The residue remaining after the payment of such costs and expenses shall be transferred into the sinking fund of said city.

§ 5. This act shall take effect immediately.

Chap. 346.

AN ACT to amend the insurance law, relative to the insurance of automobiles.

Became a law, May 19, 1908, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section one hundred and ten of chapter six hundred and ninety of the laws of eighteen hundred and ninety-two, entitled "An act in relation to insurance corporations, constituting chapter thirty-eight of the general laws," as amended by chapter

five hundred and three of the laws of nineteen hundred and seven, *is* hereby amended to read as follows:

§ 110. **Incorporation.**— Thirteen or more persons may become a corporation for the purpose of making insurances on dwelling houses, stores and all kinds of buildings and household furniture, and other property against loss or damage by fire, lightning, wind, storms or tornadoes, earthquakes, and upon vessels, boats, cargoes, goods, merchandise, freights and other property against loss or damage by all or any of the risks of lake, river, canal and inland navigation and transportation including insurances upon automobiles, whether stationary or being operated under their own power, and to effect reinsurance of any risks taken by it, by filing in the office of the superintendent of insurance a declaration signed by all of them of their intention to form a corporation for the purpose of transacting the business of making any or all of such insurances, which shall comprise a copy of the charter proposed to be adopted by them, setting forth the name of the corporation, the place of location of its office, the mode in which its corporate powers are to be exercised and its directors elected, a majority of whom shall be citizens of this state, and if a stock corporation, the owner in his own right of at least five hundred dollars of the stock of the corporation, at its par value, the mode of filling vacancies in the office of director, the period for the commencement and termination of its fiscal year and the amount of capital to be employed in the transaction of the business. No such declaration shall be filed, unless the persons signing the same shall have previously published for at least two weeks successively a notice of their intention to form such a corporation in a public newspaper in the county where its office is to be located. Every such corporation shall be known as a fire insurance corporation. No such corporation shall directly or indirectly deal or trade in buying or selling any goods, wares, merchandise or other commodities whatever, except such articles as may be insured by it, and are claimed to be damaged by any cause so insured against.

§ 2. This act shall take effect immediately.

Chap. 347.

AN ACT to amend section sixty of the insurance law, in relation to estimates and misrepresentations.

Became a law, May 19, 1908, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section sixty of the insurance law in relation to estimates and misrepresentations as added by chapter three hundred twenty-six of the laws of nineteen hundred and six is hereby amended to read as follows:

§ 60. **Estimates and misrepresentations prohibited.**— No life insurance corporation doing business in this state and no officer, director or agent thereof shall issue or circulate, or cause or permit to be issued or circulated, any estimate, illustration, circular or statement of any sort misrepresenting the terms of any policy issued by it or the benefits or advantages promised thereby, or the dividends or share of surplus to be received thereon, or shall use any name or title of any policy or class of policies misrepresenting the true nature thereof. Nor shall any such corporation or agent thereof make any misrepresentation to any person insured in another company for the purpose of inducing or tending to induce such person to lapse, forfeit, or surrender his said insurance. Any violation of this section shall constitute a misdemeanor, and it shall be the duty of the superintendent of insurance to revoke the license of the corporation or agent so offending.

§ 2. This act shall take effect immediately.

Chap. 348.

AN ACT to authorize the city of Oswego to provide for the construction of subways or conduits in the streets, avenues, highways, alleys, public lanes and squares in said city of Oswego and to construct said subways and conduits and to provide for the control, management, operation and leasing thereof.

Became a law, May 19, 1908, with the approval of the Governor. Passed, three-fifths being present.

Accepted by the City.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The common council of the city of Oswego is hereby authorized and empowered to designate such streets or parts thereof in which, in its judgment, should be constructed and to construct therein subways or conduits for electrical wires, cables, connections and underground constructions, with the necessary ducts, branches, pipes, manholes, appurtenances and appliances, proper and sufficient for receiving, containing and carrying such electrical wires, cables and connections, and also to lease or rent and operate the same or spaces therein.

§ 2. When the common council shall designate any streets or parts thereof in which subways or conduits should be constructed, it may cause a survey, map, plans and specifications for constructing such subways, conduits and appurtenances thereto to be made by the city engineer, and said common council after adopting said map, plans and specifications, shall cause a notice to be published for six days in all the daily newspapers published in said city, briefly describing said proposed improvement and the manner in which it is proposed to pay therefor, and stating that the map, plans and specifications for the same are on file in the office of the city engineer where they may be seen and examined, and requiring all persons interested to attend the common council at a time and place therein appointed when an opportunity will be given them to be heard in the premises. At the time and place appointed the common council shall hear all persons interested and may thereupon make such order and determination with reference to such proposed improvements as to its members shall seem proper.

§ 3. If the common council shall determine to construct such subways or conduits and the appurtenances thereto, pursuant to the provisions of this act, it shall cause a notice to be published six days in all the daily newspapers published in said city, and as many times in such other papers, as its members may deem advisable, describing briefly the proposed improvement, and stating that copies of the specifications and proposals for doing the work may be obtained of the city engineer and that sealed proposals to contract therefor will be received by the mayor up to the time named in said notice. Each sealed proposal shall be accompanied by a certified check, payable to the order of the city of Oswego, for such amount as the common council shall designate, to become and be the property of the city, if such proposal be accepted and the person, copartnership, persons or corporation making it does not, within fifteen days after notification of its acceptance, enter into and execute a contract to do such work in conformity with the specifications and the proposal accepted, and execute and deliver, concurrently therewith, a bond in the penal sum of double the amount for which the person, copartnership, persons or corporation proposes to do the work, with two or more sureties, each surety justifying in the penal sum of said bond, or a surety company bond, to be approved by the mayor, conditioned for the faithful performance of such contract in all of its particulars, by the contractor. Instead of such certified check each sealed proposal may be accompanied by a bond, in such penal sum as the common council may direct, signed by the person, persons, copartnership or corporation so proposing, and by two or more sureties, each surety justifying in the penal sum of said bond, or a surety company bond, to be approved by the mayor, conditioned that if such proposal be accepted the person, persons, copartnership or corporation making the same will, within fifteen days after notification of its acceptance, enter into a contract with the city to do such work, in accordance with the specifications and proposal accepted, and execute and deliver concurrently therewith, a bond in the penal sum of double the amount for which the person, persons, copartnership or corporation proposes to do the work, with two or more sureties, each surety justifying in the penal sum of said bond, or a surety company bond, to be approved by the mayor, conditioned for the faithful performance of such contract in all its particulars, by the contractor.

§ 4. At the first meeting of the common council, after the date named in said notice, the mayor shall present to the com-

mon council all sealed proposals and all bonds and certified checks accompanying the same, received by him, and the same shall be then opened and considered. The common council may reject any and all proposals received if its members deem it for the best interests of the city so to do. If a proposal which shall be considered favorable to the city is so received and the check or bond accompanying the same is acceptable, the common council shall accept the same and direct the mayor and commissioner of works to enter into a contract with the party making such proposal. The work shall be done under the supervision of the commissioner of works, who may, subject to the approval of the mayor, appoint one or more inspectors thereof and fix their compensation.

§ 5. The common council may at any time during the progress of such work, pay to the contractor, such portion of the contract price not exceeding eighty-five per centum of the value of the work when completed (to be certified by the city engineer), as its members may deem advisable; but such payment, if made, shall not be an acceptance of that portion of the work when completed, or a waiver of any of the rights of the city with reference thereto. Such payments may be made from the contingent fund of the common council.

§ 6. When said work shall have been fully completed in accordance with said specifications and contract, the commissioner of works shall file with the mayor a certificate to that effect (to be approved by the mayor), and in the office of the city clerk a certified detailed statement of the cost of said work, including the compensation of the inspector or inspectors and city engineer, and all other disbursements connected therewith. The common council shall at its first meeting, after such certificate of completion, with the approval of the mayor indorsed thereon, shall have been filed in the office of the city clerk accept such subways or conduits and appurtenances thereto, and determine the aggregate cost thereof, including the compensation of the inspector or inspectors and city engineer and all other disbursements connected therewith.

§ 7. The city chamberlain shall create and keep a separate fund to be known as the subway maintenance and rental fund for all subways or conduits and appurtenances thereto constructed under the provisions of this act. He shall credit to said fund all moneys received by the city chamberlain as rentals for

the use of said subways or conduits and appurtenances thereto or from any other source whatever which should be properly credited thereto. He shall charge to said fund all expenditures for maintenance and care of said subways or conduits and appurtenances thereto, and shall disburse said funds in such manner as the common council shall direct.

§ 8. The commissioner of works shall have the custody and care of all subways or conduits and appurtenances thereto constructed under the provisions of this act; he shall make, subject to the approval of the common council, rules and regulations for the management, care and use of said subways or conduits and appurtenances thereto; he shall also have power, subject to the approval of the common council, to establish reasonable rates of rents to be charged for the use of said subways or conduits or either of them and appurtenances thereto, and penalties thereon; but the total amount of rents shall not at any time exceed ten per centum per annum of the entire cost of providing, constructing, equipping, maintaining, repairing and operating said subways or conduits and appurtenances thereto. The payments of rents may be required in advance and they shall be payable quarterly at the office of the city chamberlain and such rents and penalties thereon shall be a lien like taxes of the city.

§ 9. The commissioner of public works shall file in the office of the city chamberlain a schedule of rents and penalties, to be paid by the users of said subways or conduits and appurtenances thereto, and shall record in said schedule, the names, in alphabetical order of the persons, firms, copartnership or corporations from whom rents are payable, the amount of quarterly rents due from each person, firm, copartnership or corporation and when the same shall become due and payable, and the penalties attached thereto for nonpayment. The city chamberlain shall serve upon all persons, firms, copartnerships or corporations, whose names appear upon said schedule, at least five days before quarterly rents become due and payable, a notice, either personally or by depositing the same inclosed in a sealed envelope, directed to said persons, firms, copartnership or corporations at their last known address, according to the best information he may be able to obtain, the postage being pre-paid thereon, which said notice shall state the name of the person, firm, copartnership or corporation, the amount of rents due and payable and the quarter for which said rents are payable and the penalty for nonpayment thereof. No error or mistake in the name of any person,

firm, copartnership or corporation in said schedule or notice, or mistake in stating the amount of rents due or a failure to file said schedule or serve said notice, except where fraud is shown, shall relieve any person, firm, copartnership or corporation properly chargeable with rents for the use of said subways or conduits and appurtenances thereto from the payment of said rents and penalties, or invalidate the lien for said rents due and payable, and such lien may be enforced and foreclosed by action in any court having jurisdiction to foreclose mortgages upon real estate.

§ 10. Upon the receipt of the annual tax rolls from the city clerk, the city chamberlain shall add any delinquent rents and penalties thereon, due and payable from any person, firm, copartnership or corporation to the August installment of taxes due from said person, firm, copartnership or corporation, and thereafter the aggregate amount in each case shall be regarded as "tax" and shall be collected in the same manner, with like percentage, power and effect as the August installment of the annual city taxes.

§ 11. If any person shall wilfully do or cause to be done any act whereby any work, material or property whatsoever, constructed, erected or used by said city in and about its subways or conduits and appurtenances thereto shall in any manner be injured, such person shall be deemed guilty of a misdemeanor.

§ 12. The officer having the custody and care of said subways or conduits and appurtenances thereto, constructed under the provisions of this act, shall prescribe ordinances for their use and protection, which said ordinances when ratified and approved by the common council and published three times in all the daily newspapers, published in said city, shall have the same force and effect as an ordinance enacted by the common council.

§ 13. The common council of the city of Oswego shall have the power to control the erection and removal of all telegraph, electric light or power and telephone poles, wires, cables, and other electrical conductors in all streets or parts of streets in which such subways or conduits shall have been constructed, and to direct and require that all such wires, cables and other electrical conductors heretofore or hereafter erected or constructed in the streets of said city be placed in subways or conduits owned or controlled by the person or corporation owning such cables, wires or conductors, or, at their option, in subways or conduits constructed by the city upon uniform rates, terms, rentals and conditions to be fixed and determined by the common council, within a reason-

able time after such direction, and a compliance with such direction and requirement may be enforced by mandamus or other appropriate remedy in any court of competent jurisdiction, upon the application of the city.

§ 14. The word "streets" as used in this act shall, in all proper cases, be held to include and be coextensive with the words "avenues, highways, alleys, public lanes and squares"; the words "subway and conduit" shall mean an underground structure containing a series of ducts and manholes in which are contained and through which are distributed pipes, wires and all other appliances necessary for the maintenance and operation of electric wires and conductors underground. The word "duct" as used in this act means one of the spaces or pipes extending between the manholes in the subway or conduit in which the electric wires, conductors and appliances are placed.

§ 15. All statutes of the state, ordinances of the common council and acts or parts of acts so far as inconsistent with the provisions of this act are, so far as the city of Oswego is concerned, hereby repealed.

§ 16. This act shall apply to all the subways heretofore constructed by the city of Oswego.

§ 17. This act shall take effect immediately.

Chap. 349.

AN ACT to amend chapter seven hundred and fifty-six of the laws of nineteen hundred and seven, entitled "An act to provide for the government and to supplement the provisions of law relating to the city of Schenectady," relative to salaries of assistant chiefs of fire department.

Became a law, May 19, 1908, with the approval of the Governor. Passed, three-fifths being present.

Accepted by the City.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section one hundred and thirty of chapter seven hundred and fifty-six of the laws of nineteen hundred and seven, entitled "An act to provide for the government and to supplement the provisions of law relating to the city of Schenectady," is hereby amended to read as follows:

§ 130. **Assistant chiefs of fire department.**— The volunteer firemen of the city of Schenectady shall, on the second Tuesday of December, nineteen hundred and eight, and the second Tuesday of December annually thereafter, nominate and elect, subject to the approval of the commissioner of public safety, two assistant chiefs of the fire department. The salaries of such assistants shall be fixed by the board of estimate and apportionment.

§ 2. This act shall take effect immediately.

Chap. 350.

AN ACT to amend the liquor tax law, in relation to duties and powers of special agents; statements to be made upon application for liquor tax certificates; bonds to be given; payment of the tax and issuing of the liquor tax certificate; places in which traffic in liquors shall not be permitted; persons who shall not traffic in liquors; revocation and cancellation of liquor tax certificates; injunction proceedings; illegal sales and selling; violations and penalties; surrender of forfeited liquor tax certificates; warrants of search and seizure of liquors; jurisdiction of courts and reports of magistrates, courts and court clerks; duties and fees of sheriffs.

Became a law, May 19, 1908, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section ten of chapter one hundred and twelve of the laws of eighteen hundred and ninety-six, entitled "An act in relation to the traffic in liquors, and for the taxation and regulation of the same, and to provide for local option, constituting chapter twenty-nine of the general laws," as amended by chapter three hundred and twelve of the laws of eighteen hundred and ninety-seven, as amended by chapter four hundred and eighty-six of the laws of nineteen hundred and three, and as amended by chapter three hundred and forty-eight of the laws of nineteen hundred and four, is hereby amended to read as follows:

§ 10. **Duties, powers, salaries and expenses of special agents; attorneys.**— The state commissioner of excise shall appoint not more than sixty special agents, each of whom shall receive the salary herein prescribed, payable in equal monthly installments,

together with the necessary expenses incurred by direction of the state commissioner in the performance of the duties of his office, or the state commissioner of excise, in his discretion, may fix a per diem allowance for subsistence, to be audited and allowed at not more than three dollars per day, nor less than one dollar per day, together with such other necessary expenses as shall be incurred by the agent in the performance of the duties of his office by direction of the state commissioner; provided that no per diem allowance for subsistence shall be audited or paid to any agent for any day or days during which the agent shall be engaged in official work in the city, borough, village or town in which he resides. Each of such special agents shall execute and file in the office of the state comptroller a bond to the people of the state in such sum and with such sureties as the commissioner shall require, conditioned for the faithful performance of the duties of his office. Such special agents shall be deemed the confidential agents of the state commissioner, and shall, under the direction of the commissioner, and as required by him, investigate all matters relating to the collection of liquor taxes and penalties under this act and in relation to the compliance with law by persons engaged in the traffic in liquors; and perform all duties as to the search and seizure of liquors set forth in section thirty-one-c of this act. Any such special agent may enter any place where liquors are sold at any time when the same is open, and may examine any liquor tax certificate granted or purported to have been granted in pursuance of law. He may, at any time between six o'clock in the morning and six o'clock in the evening, or any other time when the same are open, enter any uncertificated premises to search for and seize liquors as provided in section thirty-one-c of this act; he may execute warrants issued and directed to him as provided in said section, and perform all acts authorized therein. He may investigate any other matters in connection with the sale of liquor and shall, under the direction of the state commissioner, make verified complaints of criminal violations of this act investigated by him, and forward the same to the state commissioner for examination, and if approved, to be by him certified and forwarded to the district attorney for prosecution as provided in the case of other officers in section thirty-seven hereof. He shall be liable for penalties as provided in section thirty-eight of this act, for neglect by public officers. Each special agent now in office or hereafter appointed shall receive

an annual salary of one thousand dollars until he shall have served one year from the date of his appointment; thereafter he shall receive an annual salary of twelve hundred and fifty dollars until he shall have served two years from the date of his appointment; and thereafter he shall receive an annual salary of fifteen hundred dollars. The state commissioner may employ necessary counsel in the department of excise, and may likewise designate and appoint an attorney or attorneys to represent him or to act with the special deputy, special agent or county treasurer in the prosecution or defense of any action or proceeding brought under the provisions of this act. They shall be paid by the state treasurer, on the warrant of the comptroller, such compensation as shall be agreed upon by the state commissioner. All officers appointed or employed under the provisions of sections eight, nine and ten of this act may be removed by the state commissioner, who may appoint their successors as provided by law. The state commissioner of excise may, whenever in his judgment the ends of justice will be promoted thereby, by an instrument in writing under his hand and official seal, upon the written request of the district attorney of any county, designate and appoint an attorney and counselor of the supreme court to act with, or for, and in the place of the district attorney in the investigation before a magistrate, and in the trial of any person or persons charged with a violation of the liquor tax law in any court having jurisdiction thereof. The attorney and counselor so appointed shall have and possess all of the powers and authority of the district attorney under this act, or conferred by the provisions of the code of criminal procedure, or of the penal code of this state in respect to the investigation, prosecution and trial of the case or cases specified in such certificate of appointment, and may as assistant district attorney under the liquor tax law, issue subpœnas requiring the attendance of witnesses before a magistrate, or upon the trial of any person under indictment, or charged with any violation of the liquor tax law. The compensation and disbursements of an assistant to a district attorney appointed by the state commissioner of excise shall be paid by the county treasurer of the county, or comptroller or fiscal officer of the city to which such designation applies, upon the warrant of the state commissioner of excise, but such warrant shall not be drawn until the attorney so designated shall present a duplicate itemized account to the state commissioner of excise

for compensation and disbursements, duly verified, which account shall be audited and approved by the state commissioner in such sum as he deems reasonable and proper, and his warrant upon the county treasurer, city comptroller or fiscal officer shall be in the amount of the account presented as audited and allowed by him. If such treasurer, comptroller or fiscal officer has no funds in his hands applicable to the payment of such warrant, he shall at once borrow enough money upon the credit of the county, and is hereby authorized so to do, to pay said warrant and shall immediately pay the same.

§ 2. Subdivision five of section seventeen of said chapter, as amended by chapter three hundred and twelve of the laws of eighteen hundred and ninety-seven, as amended by chapter three hundred and sixty-seven of the laws of nineteen hundred, as amended by chapter six hundred and seventy-seven of the laws of nineteen hundred and five, and as amended by chapter three hundred and forty-five of the laws of nineteen hundred and seven, is hereby amended to read as follows:

5. And a statement that such applicant has not been convicted of a felony; has not been convicted of a violation of this law within three years prior to the date of such application; does not, as owner or agent, carry on, or permit to be carried on, nor is interested in any traffic, business or occupation, the carrying on of which is a violation of law, and may lawfully carry on such traffic in liquors upon such premises, under such subdivision, and is not within any of the prohibitions of this act. Also how many buildings occupied exclusively as dwellings there are, the nearest entrance to which is within two hundred feet measured in a straight line of the nearest entrance to the premises where the traffic in liquors is intended to be carried on, and whether the applicant intends to traffic in liquors under the certificate applied for in any building, yard, booth, or other place, which is on the same street or avenue and within two hundred feet of a building occupied exclusively as a church or schoolhouse, and if either question is answered affirmatively that there are any such dwellings, church or school buildings then said applicant shall also state whether such traffic in liquors, was actually, lawfully carried on in such premises on March twenty-third, eighteen hundred and ninety-six, and, if yes, the date since which said premises have been continuously occupied for such traffic in liquors; also whether said premises were actually occupied as a hotel on March twenty-

third, eighteen hundred and ninety-six, and if yes, the date since which said premises have been continuously occupied as a hotel; also whether any liquor tax certificate for traffic in liquors in such premises has been revoked or forfeited since the first day of May, nineteen hundred and five; and if yes, the date of the entry of the latest final order revoking or the date of the latest conviction or judgment forfeiting the same, and whether the violation for which such revocation, conviction or forfeiture was had was that the certificated premises had been suffered or permitted to be disorderly or that gambling had been suffered or permitted therein.

§ 3. Subdivision eight of section seventeen of said chapter, as amended by chapter three hundred and twelve of the laws of eighteen hundred and ninety-seven, as amended by chapter three hundred and sixty-seven of the laws of nineteen hundred, as amended by chapter six hundred and seventy-seven of the laws of nineteen hundred and five, and as amended by chapter three hundred and forty-five of the laws of nineteen hundred and seven, is hereby amended to read as follows:

8. When the nearest entrance to the premises described in said statement as those in which traffic in liquor is to be carried on is within two hundred feet, measured in a straight line, of the nearest entrance to a building or buildings occupied exclusively for a dwelling, there shall also be filed simultaneously with said statement a consent in writing that such traffic in liquors be so carried on in said premises during a term therein stated, executed by the owner or owners, or by a duly authorized agent or agents of such owner or owners of at least two-thirds of the total number of such buildings within two hundred feet so occupied as dwellings, and acknowledged as are deeds entitled to be recorded, except that such consent shall not be required in cases where such traffic in liquor was actually lawfully carried on in said premises so described in said statement on the twenty-third day of March, eighteen hundred and ninety-six, nor shall such consent be required for any place described in said statement which was occupied as a hotel on said last mentioned date, notwithstanding such traffic in liquors was not then carried on thereat. Whenever the consent required by this section shall have been obtained and filed as herein provided, unless the same be given for a limited term, no further or other consent for trafficking in liquor on such premises shall be required so long as such premises shall be continuously occupied

for such traffic. If a liquor tax certificate shall be revoked and cancelled under section twenty-eight of this act, or forfeited under any other section of this act, after the first day of May, nineteen hundred and five, the traffic in liquors shall not thereafter be carried on at the premises for which such certificate was issued, nor any liquor tax certificate obtained therefor so long as said premises continue to be occupied, not exceeding one year, by the person who was the holder of the forfeited certificate at the time of the commission of the act complained of, or occupied by a member of his family, his agent or by any person in his employ, or representing him, or so long as the said former certificate holder shall be interested in the traffic in liquors to be continued at said premises under a new certificate, unless there shall be obtained and filed simultaneously with the application statement for such certificate, a consent in writing that such traffic in liquors be so carried on in said premises, as required by the general provisions of this subdivision, notwithstanding such traffic in liquor may have been actually lawfully carried on in said premises on the twenty-third day of March, eighteen hundred and ninety-six, or said premises occupied as a hotel on said last mentioned date, and notwithstanding the consents required by this subdivision, given for an unlimited term, shall have been previously obtained and filed; and if the violation of law for which the cancellation or forfeiture of said certificate was had was that the holder thereof, or his agent, had suffered or permitted said certificated premises, or any yard, booth, garden or any other place appertaining thereto or connected therewith, to become disorderly, or had suffered or permitted any gambling in the place designated by the liquor tax certificate as that in which the traffic in liquors was to be carried on, or in any yard, booth, garden or any other place appertaining thereto or connected therewith, no new certificate shall be issued for said premises to any person, for the period of one year from the date of the entry of a final order cancelling such certificate, or from the date of the conviction of the certificate holder for such crime committed on said premises: provided that the discontinuance of traffic in liquors for one year or less, by reason of the provisions of this section, shall not operate or be construed to forfeit any right of traffic which, under the provisions of this section, attached to the place for which such forfeited or revoked certificate was held.

§ 4. Section eighteen of said chapter as amended by chapter three hundred and twelve of the laws of eighteen hundred and ninety-seven and as amended by chapter four hundred and eighty-six of the laws of nineteen hundred and three, is hereby amended to read as follows:

§ 18. **Bonds to be given.**— Each person taxed under this act, shall, at the time of making the application provided for in section seventeen of this act, file in the office of the county treasurer of the county in which such traffic is to be carried on, or in the office of the special deputy commissioner of excise, if there be one, or if the application be under subdivision four of section eleven of this act, with the state commissioner of excise, a bond to the people of the state of New York, in the penal sum of the amount plus one-half of the tax for one year upon the kind of traffic in liquor to be carried on by such applicant, where carried on, but in no case for less than five hundred dollars, conditioned that there is no material false statement in the application statement for such liquor tax certificate, and that if the liquor tax certificate applied for is given, the applicant or applicants will not, while the business for which such liquor tax certificate is given shall be carried on, suffer or permit any gambling in the place designated by the liquor tax certificate in which the traffic in liquors is to be carried on, or in any yard, booth, garden or any other place appertaining thereto or connected therewith, or suffer, permit or have any opening or means of entrance or passageway for persons or things between the room where the traffic in liquors is carried on, and any other room or place where any person whosoever suffers or permits any gambling, or suffer or permit such premises to become disorderly, or suffer, permit or have any opening or means of entrance or passageway for persons or things between the room or place where the traffic in liquors is carried on, and any other room or place which any person whosoever suffers or permits to become disorderly, and will not violate any of the provisions of the liquor tax law, or any act amendatory thereof or supplementary thereto; and that all fines and penalties which shall accrue during the time the certificate applied for is held, and any judgment or judgments recovered therefor, will be paid, together with all costs taxed or allowed in any action or proceeding brought or instituted under the provisions of said liquor tax law. Such bond shall be executed by each such applicant, and if given by a corporation or association, by some person or persons duly authorized so to do as principal, and by at least two sureties

who shall be freeholders severally owning within the county, city or borough where the traffic in liquors is to be carried on, under the certificate applied for, unencumbered real estate of the value of not less than the penalty of the bond and who shall be residents of the county, city or borough in which the premises are where such traffic is to be carried on, or instead of such sureties, by a corporation duly authorized to issue surety bonds by the laws of this state and approved by the state commissioner of excise, but the state commissioner shall not withhold such approval except in the case of a corporation which is of questionable solvency or which has defaulted in the payment for more than thirty days after notice of entry of a judgment recovered by the state commissioner of excise under the liquor tax law. The bond, if given by two sureties, shall have annexed thereto or indorsed thereon the affidavit of each surety that he is not engaged in the traffic in liquors nor employed in the conduct of such business, that he is a freeholder and that he owns unencumbered real estate situate in the county, city or borough where the traffic in liquors is to be carried on under the certificate applied for, of the value of not less than the penalty of the bond, the location of which shall be described in said affidavit, and if in a city or village the street and number given, and that he is worth double the penal sum named in such bond over and above his property exempt by law from levy and sale upon an execution and over and above his just debts and liabilities. The state commissioner of excise may at any time without previous prosecution or conviction for violation of any provision of the liquor tax law, or for the breach of any condition of said bond, commence and maintain an action, in his name, as such commissioner, in any court of record in any county of the state, for the recovery of the penalty for the breach of any condition of any bond or for any penalty or penalties incurred or imposed for a violation of the liquor tax law, provided, however, that such action must be commenced within three years after the cause of action has accrued, and all moneys recovered in such actions shall be paid over and accounted for in the same manner as are moneys collected under subdivision four of section eleven of this act, but no recovery shall be had in any action commenced hereafter on any bond filed and approved by the certificate issuing officer subsequent to April second, nineteen hundred and three, for more than the amount, plus one-half, of the tax for one year at the place for which the bond in suit was given, provided that

no recovery on any such bond shall be for less than five hundred dollars.

§ 5. Section nineteen of said chapter, as amended by chapter three hundred and twelve of the laws of eighteen hundred and ninety-seven, is hereby amended to read as follows:

§ 19. **The payment of the tax and issuing of the tax certificate.** — When the provisions of sections seventeen and eighteen of this act have been complied with and the application provided for in section seventeen is found to be correct in form, and does not show on the face thereof that the applicant is prohibited from trafficking in liquor under the subdivision of section eleven under which he applies, nor at the place where the traffic is to be carried on and the bond required by section eighteen is found to be correct as to its form and the sureties thereon are approved as sufficient by the county treasurer, or by the special deputy commissioner of excise, if there be one, then upon the payment of the taxes levied under section eleven of this act the county treasurer of the county, or the special deputy commissioner of excise, if there be one, or if the application be made under subdivision four or five of section eleven of this act, the state commissioner of excise, shall at once prepare and issue to the corporation, association, copartnership or person making such application and filing such bond and paying such tax, a liquor tax certificate in the form provided for in this act, unless it shall appear by a certified copy of the statement of the result of an election held on the question of local option, pursuant to section sixteen of this act, in and for the town where the applicant proposes to traffic in liquors under the certificate applied for, that such liquor tax certificate cannot be lawfully granted, in which case the application shall be refused.

§ 6. Subdivision seven of section twenty-three of said chapter, as amended by chapter three hundred and twelve of the laws of eighteen hundred and ninety-seven, as amended by chapter eighty and chapter three hundred and sixty-seven of the laws of nineteen hundred, and as amended by chapter six hundred and eighty of the laws of nineteen hundred and five, is hereby amended to read as follows:

7. No person, who, as owner or agent, shall suffer or permit any gambling in the place designated by the liquor tax certificate as that in which the traffic in liquors is to be carried on, or in any yard, booth, garden or any other place appertaining thereto or con-

nected therewith, or suffer, permit or have any opening or means of entrance or passageway for persons or things between the room where the traffic in liquors is carried on, and any other room or place where any person whosoever suffers or permits any gambling, or suffer or permit such premises to become disorderly, or suffer, permit or have any opening or means of entrance or passageway for persons or things between the room or place where the traffic in liquors is carried on, and any other room or place which any person whosoever suffers or permits to become disorderly, or carries on or permits to be carried on or is interested in any traffic, business or occupation, the carrying on of which is a violation of law.

§ 7. Section twenty-four of said chapter, as amended by chapter four hundred and forty-five of the laws of eighteen hundred and ninety-six, as amended by chapter three hundred and twelve of the laws of eighteen hundred and ninety-seven, as amended by chapter four hundred and eighty-five of the laws of nineteen hundred and four, and as amended by chapter one hundred and four and chapter six hundred and seventy-seven of the laws of nineteen hundred and five, is hereby amended to read as follows:

§ 24. **Places in which traffic in liquor shall not be permitted.**—Traffic in liquor shall not be permitted:

1. In any building or upon any premises or lands established as a penal institution, protectory, industrial school, asylum, state hospital, state agricultural and industrial school, colony or institution established for the care or treatment of epileptics, or poorhouse, and if such building, premises or lands, other than a county jail or state prison, be situated in a town and outside the limits of an incorporated village or city, not within one-half mile of any building, premises or lands so occupied, provided there be such distance of one-half mile between such building, premises and lands and the nearest boundary line of such village or city; provided, however, that this prohibition shall not apply to any place within the above prescribed limit of a building, premises or lands occupied as a state hospital, if simultaneously with the filing of each application statement descriptive of such traffic, there shall be filed a consent in writing that such traffic in liquors be so carried on during the term stated in the application, executed by a majority of the board of managers, and the superintendent of such state hospital, and acknowledged as are deeds entitled to be recorded.

2. Under the provisions of subdivision one of section eleven of this act, in any building, yard, booth or other place which shall be on the same street or avenue and within two hundred feet of a building occupied exclusively as a church or schoolhouse; the measurements to be taken in a straight line from the center of the nearest entrance of the building used for such church or school to the center of the nearest entrance of the place in which such liquor traffic is desired to be carried on; provided, however, that this prohibition shall not apply to a place which on the twenty-third of March, eighteen hundred and ninety-six, was lawfully occupied for a hotel, nor to a place in which such traffic in liquors was actually lawfully carried on at that date, nor to a place which at such time was occupied, or was in process of construction, by a corporation or association which traffics in liquors solely with the members thereof, nor to a place within such limit to which a corporation or association trafficking in liquors solely with the members thereof, at such date may remove; nor to any place within the above prescribed limit of a building occupied exclusively as a church, if, simultaneously with the filing of an application statement descriptive of such traffic, there shall be filed a consent in writing that such traffic in liquors be so carried on during a term therein stated, executed by the corporation, association or society using such building as a church, or the duly authorized agent thereof, and acknowledged as are deeds entitled to be recorded; but none of the exceptions under this subdivision shall apply to subdivision one of this section, or to any of the places enumerated in this subdivision which shall have had a liquor tax certificate for trafficking in liquors in such place revoked after the first day of May, nineteen hundred and five, or forfeited for any violation of law committed after the first day of May, nineteen hundred and eight, providing the violation of law for which such revocation or forfeiture was had was either that the certificated premises had been suffered or permitted to be disorderly or that gambling had been suffered or permitted therein, unless consent as hereinbefore provided shall thereafter be obtained and filed; nor

3. In any form, in, upon or from any vehicle, except as provided in subdivisions four and five of section eleven of this act.

4. Upon any premises used for and as a cemetery.

§ 8. Subdivision two of section twenty-eight of said chapter, as amended by chapter three hundred and twelve of the laws of

eighteen hundred and ninety-seven, as amended by chapter three hundred and sixty-seven of the laws of nineteen hundred, as amended by chapter six hundred and forty of the laws of nineteen hundred and one, as amended by chapter four hundred and eighty-six of the laws of nineteen hundred and three, as amended by chapter six hundred and eighty of the laws of nineteen hundred and five, and as amended by chapter two hundred and seventy-two of the laws of nineteen hundred and six, is hereby amended to read as follows:

Subd. 2. At any time after a liquor tax certificate has been issued to any person under section eleven of this act, said liquor tax certificate may be revoked and canceled if material statements in the application of the holder of such certificate were false, or if the consents required by section seventeen are not properly filed as required by said section, or if the holder of said certificate was not for any reason entitled to receive or hold the same, or to traffic in liquors, or if any provision of this act is violated at the place designated in said certificate as the place where such traffic is to be carried on by the holder of said certificate, or by his agent, servant, bartender or any person whomsoever in charge of said premises, or if the holder of said certificate shall violate any of the provisions of this act at any place. For the purpose of obtaining such an order, the state commissioner of excise, the deputy state commissioner of excise, or any taxpayer of the city, borough, village or town for which such liquor tax certificate was issued may present a verified petition to a justice of the supreme court, or a special term of the supreme court of the judicial district, or the county court or judge of the county in which such traffic in liquors is designated to be carried on, or in which the holder of such certificate resides, or, if such holder of a liquor tax certificate is authorized to traffic in liquor under subdivision four or five of section eleven of this act, to a justice of the supreme court of the judicial district in which the principal office within this state of the corporation, association, copartnership or person is located, for an order revoking and canceling such certificate upon either or all of the grounds hereinbefore stated. Such petition shall state the facts upon which such application is based, and the state commissioner of excise shall be made a party to the proceeding, and from all other parties thereto shall be entitled to due

notice of all proceedings, and shall be duly served with copies of all papers and pleadings where such notice of proceedings is not given to, and such service of papers and pleadings is not made upon, an attorney appearing therein upon his behalf pursuant to a designation under section ten of this act. Upon the presentation of the petition, the justice, judge or court shall grant an order requiring the holder of such certificate to show cause before such justice, judge or court, or before a special term of the supreme court of the judicial district, on a day specified therein, not more than ten days after the granting thereof, why an order revoking and canceling such liquor tax certificate should not be granted; and said order shall also contain an injunction restraining the said certificate holder from transferring or surrendering such certificate for rebate, except as is hereinafter provided, until the final determination of the proceeding. Before granting such order to show cause or at any time during the pendency of said proceeding, upon motion of any party thereto on not less than five days' notice, said justice, judge or court may as a matter of discretion, if the petitioner be a taxpayer other than the state commissioner or deputy state commissioner of excise, order him to present a bond to the people of the state of New York, with sufficient sureties, in a penal sum of not more than five hundred dollars nor less than one hundred dollars, as said justice, judge or court shall direct, to be approved by the said justice, judge or court and filed in the office of the state commissioner of excise, together with a copy of the order requiring such bond, within five days thereafter, conditioned that the said proceeding will be prosecuted to a final determination without delay, and will not be suspended, compromised, settled or discontinued except in pursuance of an order of the court as provided herein, and the state commissioner of excise may commence and maintain an action for the full penalty thereof on account of the breach of any condition of said bond as though such bond were given under section eighteen of this act. A copy of such petition and order shall be served upon the holder of such certificate, and the officer issuing the same, or his successor in office, and upon the state commissioner of excise, in the manner directed by such order, not less than five days before the return day thereof. On the day specified in such order, the justice, judge or court before whom the same is returnable shall grant such order revoking and canceling the said liquor tax certificate, unless the holder of said

liquor tax certificate shall present and file an answer to said petition, which answer denies each and every violation of the liquor tax law, alleged in the petition, and raises an issue as to any of the facts material to the granting of such order, in which event the said justice, judge or court shall hear the proofs of the parties in relation to the allegations of the petition or answer. If the said evidence establishes any of the facts hereinbefore set forth as sufficient to revoke and cancel a certificate, an order shall be granted by said justice, judge or court revoking and canceling such certificate. Said order shall also provide that the holder of said liquor tax certificate, or any other person having such certificate in his possession or under his control, shall forthwith surrender said certificate to the officer who issued the same, or to his successor in office. A criminal prosecution and conviction for any violation of the liquor tax law shall not be a condition precedent to the granting of an order revoking and canceling any liquor tax certificate for any violation of this act. Upon the entry of such order in the county clerk's office of the county in which the traffic in liquors is authorized to be carried on under the certificate so revoked, and filing a copy thereof with the officer who issued such certificate, or his successor in office, and the service of a certified copy thereof upon the holder of said liquor tax certificate, or such substituted service as the court, judge or justice may direct, all the rights of the holder of said liquor tax certificate under such certificate, to traffic in liquors or to any rebate thereon under this act, shall cease, and the holder of said liquor tax certificate, or any other person having such certificate in his possession or under his control, upon whom service of a certified copy of said order shall be made in like manner, shall immediately surrender said certificate to the officer who issued the same, or to his successor in office. The neglect or refusal on the part of any person to surrender said certificate in pursuance of such order immediately upon the service thereof, shall be a contempt of court, punishable in the manner provided by the code of civil procedure. Upon the granting, entry and service of an order revoking and canceling a liquor tax certificate issued under subdivision three of section eleven to any person who is a licensed druggist or licensed pharmacist, such person shall, in addition to the other penalties prescribed by this act, forfeit the use of his license as such druggist or pharmacist for the term of one year and be deprived of all rights and privileges thereunder during such

period, and such license shall be surrendered with the liquor tax certificate so revoked and canceled, to be held by the officer to whom the same is surrendered, or his successor in office until the expiration of such period of suspension; and upon the granting, entry and service of an order revoking and canceling a liquor tax certificate issued to any person who is not a licensed druggist or a licensed pharmacist, but is in copartnership with or has such licensed druggist or licensed pharmacist in his employ at the place for which such liquor tax certificate was issued, and it shall appear from said order that any violation of this act has been committed by such licensed druggist or licensed pharmacist, or with his knowledge or consent at the place for which such liquor tax certificate was issued, the license of such druggist or pharmacist shall be similarly forfeited and surrendered. For the term of one year thereafter, no liquor tax certificate shall be issued to any corporation, association, copartnership or person to traffic in liquors under subdivision three of section eleven of this act, at the place for which such revoked and canceled liquor tax certificate was issued. The neglect or refusal on the part of any person to surrender his said license immediately upon the service of such order shall be a contempt of court, punishable in the manner provided by the code of civil procedure. Costs upon such proceeding may be awarded in favor of and against the petitioner or the certificate holder, in such sums as in the discretion of the justice, judge or court before which the petition is heard, may seem proper. At the time of the return of the show cause order, or at any time thereafter during the pendency of the proceeding upon five days' notice to the certificate holder by any party, the justice, judge or court granting the same may grant an injunction order restraining the certificate holder, his agents and servants from trafficking under the certificate or certificates sought to be canceled in the proceeding, or at the place or places for which the same were issued, and requiring that the said certificate or certificates be immediately delivered to the officer who issued the same, to be held until the final determination of the proceeding, provided that, if the material allegations of the petition be upon information and belief, the justice, judge or court must require the presentation of one or more affidavits containing positive averments made by witnesses having personal knowledge of facts constituting one or more of the violations of law set forth in the petition. Before granting such injunction order said justice, judge or court may, if the

petitioner be a taxpayer other than the state commissioner or deputy state commissioner of excise, require him to file a bond, with sufficient sureties, to the certificate holder, to be approved by the justice, judge or court, conditioned that, in case the certificate holder is successful in the proceeding, the petitioner will pay all costs taxed and allowed, and all damages not exceeding the sum of two hundred and fifty dollars. Such injunction order shall be served upon the certificate holder as provided therein, and failure to comply with its requirements shall be a contempt of court. No proceeding instituted for the cancellation of a liquor tax certificate shall be suspended, compromised, settled or discontinued except by order of the justice, judge or court before which the same is pending, upon not less than eight days' written notice to all parties, including the state commissioner of excise, of the time and place, when and where application for such order will be made. The granting of such order of discontinuance must be for sufficient cause in the discretion of the justice, judge or court, which must be recited therein, and shall be upon such terms and conditions as shall be prescribed in the order. If any person shall attempt or offer to make any settlement or compromise of any such proceeding, except as above provided, or shall demand, or receive, or offer to receive, directly or indirectly, any money or other thing of value as a consideration for not commencing or prosecuting any proceeding for the cancellation of a liquor tax certificate, he shall be guilty of a misdemeanor, and, upon conviction, shall be subject to the same penalties prescribed in subdivision one of section thirty-four of this act. In case a liquor tax certificate is surrendered pursuant to an injunction order or otherwise during the pendency of a cancellation proceeding, and the petitioner shall be unsuccessful therein, the final order shall provide that a pro rata rebate be computed by the state commissioner of excise for the actual time that traffic has been suspended under the injunction order, and the said state commissioner shall prepare two orders for the payment of such rebate, one order for the one-half thereof directed to the state treasurer, to be paid by him on the certificate of the comptroller, and one order for the one-half of such rebate directed to the fiscal officer of the proper locality, to be paid by such fiscal officer out of any excise or other moneys of such locality applicable thereto, as provided in section twenty-five of this act in case of voluntary surrender of a certificate.

§ 9. Section twenty-nine of said chapter, as amended by chapter three hundred and twelve of the laws of eighteen hundred and ninety-seven, is hereby amended to read as follows:

§ 29. **Injunction for unlawfully trafficking in liquors or without liquor tax certificate.**— If any person shall unlawfully traffic in liquor without obtaining a liquor tax certificate, as provided by this act, or shall traffic in liquors contrary to any provision of this act, the state commissioner of excise, the deputy commissioner, or any taxpayer residing in the city, borough, village or town, may present a verified petition to a justice of the supreme court or a special term of the supreme court of the judicial district in which such county is situated or the county court or judge of the county in which such traffic in liquors is carried on, for an order enjoining such person from trafficking in liquor thereafter. Such petition shall state the facts upon which such application is based. Upon the presentation of the petition, the justice, judge or court shall grant an order requiring such corporation, association, copartnership or person to appear before such justice, judge or court, or before a special term of the supreme court of the judicial district, on the day specified therein, not more than ten days after the granting thereof, to show cause why such person should not be permanently enjoined from trafficking in liquor, until a liquor tax certificate has been obtained, in pursuance of law, or why such person should not be permanently enjoined from trafficking in liquors contrary to the provisions of the liquor tax law. A copy of such petition and order shall be served upon the person, in the manner directed by such order, not less than five days before the return day thereof. On the day specified in such order, the justice, judge or court before whom the same is returnable shall hear the proofs of the parties, and may, if deemed necessary or proper, take testimony in relation to the allegations of the petition. If the justice, judge or court is satisfied that such corporation, association, copartnership or person has unlawfully trafficked in liquor without having obtained a liquor tax certificate, as provided by this act, or contrary to the provisions of this act, an order shall be granted enjoining such person from thereafter trafficking in liquor, contrary to the provisions of the liquor tax law, or without obtaining a liquor tax certificate. If, after the entry of such order in the county clerk's office of the county in which the principal place of business of the corporation, association or copartnership is located, or in which the person so en-

joined resides or traffics, and the service of the copy thereof upon such corporation, association, copartnership or person, or such substituted service as the court may direct, such corporation, association, copartnership or person shall, in violation of such order, traffic in liquor, such traffic shall be deemed a contempt of court and punishable in the manner provided by the code of civil procedure. Costs upon the application for such injunction may be awarded in favor of and against the parties thereto in such sums as in the discretion of the justice, judge or court before which the petition is heard may seem proper. No proceeding under this section shall be taken, however, for a violation of section twenty-one of the liquor tax law, against any holder of a liquor tax certificate, who shall have made proper application for a new certificate, during the days of grace allowed under the provisions of said section twenty-one.

§ 10. Clause "e" of section thirty-one of said chapter, as amended by chapter three hundred and twelve of the laws of eighteen hundred and ninety-seven, as amended by chapter three hundred and sixty-seven of the laws of nineteen hundred, as amended by chapter six hundred and forty of the laws of nineteen hundred and one, as amended by chapter four hundred and eighty-six of the laws of nineteen hundred and three, and as amended by chapter two hundred and five of the laws of nineteen hundred and four, is hereby amended to read as follows:

e. To sell or expose for sale or have on the premises where liquor is sold, any liquor which is adulterated with any deleterious drug, substance or liquid which is poisonous or injurious to health; or to suffer or permit any gambling in the place designated by the liquor tax certificate as that in which the traffic in liquors is to be carried on or in any yard, booth, garden or any other place appertaining thereto or connected therewith, or to suffer, permit or have any opening or means of entrance or passageway for persons or things between the room or place where the traffic in liquors is carried on, and any other room or place where any person whosoever suffers or permits any gambling, or to suffer or permit such premises to become disorderly, or to suffer, permit or have any opening or means of entrance or passageway for persons or things between the room or place where the traffic in liquors is carried on, and any other room or place which any person whosoever suffers or permits to become disorderly, or to carry on or to permit to be carried on or to be interested in

any traffic, business or occupation, the carrying on of which is in violation of law; or,

§ 11. Clause "f" of section thirty-one of said chapter, as amended by chapter three hundred and twelve of the laws of eighteen hundred and ninety-seven, as amended by chapter three hundred and sixty-seven of the laws of nineteen hundred, as amended by chapter six hundred and forty of the laws of nineteen hundred and one, as amended by chapter four hundred and eighty-six of the laws of nineteen hundred and three, and as amended by chapter two hundred and five of the laws of nineteen hundred and four, is hereby amended to read as follows:

f. To permit any girl or woman, or any minor under the age of eighteen years, not a member of his family, or to knowingly permit any person who has been convicted of a felony, to sell or serve any liquor upon the premises; or to permit any person described in section thirty of this act as "persons to whom liquor shall not be sold or given away" to enter and remain in any barroom where liquors are sold; or

§ 12. Clause "h" of section thirty-one of said chapter, as amended by chapter three hundred and twelve of the laws of eighteen hundred and ninety-seven, as amended by chapter three hundred and sixty-seven of the laws of nineteen hundred, as amended by chapter six hundred and forty of the laws of nineteen hundred and one, as amended by chapter four hundred and eighty-six of the laws of nineteen hundred and three, and as amended by chapter two hundred and five of the laws of nineteen hundred and four, is hereby amended to read as follows:

h. To have during the hours when the sale of liquor is forbidden any screen or blinds, or any curtain or article or thing covering any part of any window; or to have in, near to or back of any window or door any opaque or colored glass or article or thing that obstructs or in any way prevents a person passing from having a full view from the sidewalk, alley, or road in front of, or from the side, or end of the building, of the bar and room, or any part of such bar and room, where liquors are sold or kept for sale; or to traffic in liquors in any interior bar or room or place not having in the principal door of entrance to such room or bar, a section of such door fitted with clear glass, through which, during prohibited hours and times, a clear, unobstructed view of the bar and room where liquors are sold and kept for sale can be had. And it shall be

unlawful to have at any time in the room where liquors are sold any inclosed box or stall or any obstruction which prevents a full view of the entire room by every person present therein; or

§ 13. Said chapter, as amended by chapter four hundred and forty-five of the laws of eighteen hundred and ninety-six, as amended by chapter three hundred and twelve of the laws of eighteen hundred and ninety-seven, as amended by chapter one hundred and sixty-seven of the laws of eighteen hundred and ninety-eight, as amended by chapter three hundred and ninety-eight and chapter four hundred and thirty-four of the laws of eighteen hundred and ninety-nine, as amended by chapter eighty, chapter two hundred and fifty-seven, and chapter three hundred and sixty-seven of the laws of nineteen hundred, as amended by chapter six hundred and forty of the laws of nineteen hundred and one, as amended by chapter one hundred and fifteen and chapter four hundred and eighty-six of the laws of nineteen hundred and three, as amended by chapter two hundred and five, chapter three hundred and forty-eight and chapter four hundred and eighty-five of the laws of nineteen hundred and four, as amended by chapter one hundred and four, chapter six hundred and seventy-seven, chapter six hundred and seventy-eight, chapter six hundred and seventy-nine, chapter six hundred and eighty, and chapter six hundred and ninety-eight of the laws of nineteen hundred and five, as amended by chapter one hundred and eighty-three and chapter two hundred and seventy-two of the laws of nineteen hundred and six, as amended by chapter three hundred and forty-five and chapter four hundred and sixty of the laws of nineteen hundred and seven, is hereby further amended by adding a new section, to be section thirty-one-c and to read as follows:

§ 31c. Search for seizure and forfeiture of liquors kept for unlawful traffic.

Subdivision 1. Liquors kept, stored or deposited in any place in this state after July first, nineteen hundred and eight, for the purpose of sale or distribution therein in violation of the provisions of this act, and the vessels in which such liquors are contained, are declared to be a nuisance, and are forfeited to the state when seized, and such forfeiture declared in the manner provided in this section.

Subd. 2. Upon the verified complaint of a special agent, or of a peace officer or any citizen, setting forth facts which estab-

lish that liquors are kept, stored or deposited in any place in this state for the purpose of unlawful sale or distribution therein within this state, or that there is probable cause for believing that liquors are so kept, stored or deposited, any judge of any city court of record of the city, or any county judge of the county or justice of the supreme court in the judicial district where such liquors are so kept, stored or deposited, shall, if satisfied that there is probable cause to believe that liquors are so kept, stored or deposited, issue his warrant directed to any peace officer, or to a special agent upon his request, commanding him forthwith to search the premises described in said warrant for the liquors specified therein, and to seize such liquors, if found, and to safely keep such liquors until final action thereon, as in this section provided, and to make immediate return thereon to the judge or justice issuing the same. The complaint shall state the name of the person so keeping, storing or depositing such liquors as aforesaid, and the name of the owner of the premises where such liquors are so stored, kept or deposited, if known to the complainant, together with a description of such premises sufficient to identify the same. The warrant shall contain a notice directed generally to all persons claiming any right, title or interest in such liquors to appear before the judge or justice issuing such warrant, at a place and at a time therein specified, not more than twenty days after the issuance of said warrant and not less than ten days after the execution thereof, and show cause why such liquors should not be forfeited to the state. The warrant must be executed by the special agent or peace officer to whom it is delivered within ten days after the issuance thereof, and such warrant may be executed at any time between the hours of six o'clock in the morning and six o'clock in the afternoon, or if the premises be open, at any other time. The peace officer or special agent executing such warrant is invested with all the powers conferred upon a peace officer in the execution of a search warrant by sections seven hundred and ninety-nine and eight hundred of the code of criminal procedure. Any person who shall forbid, obstruct or prevent any such peace officer or special agent or any accompanying helper or assistant, free entry into or search of any building or premises specified in such warrant, or the seizure of such liquors therein found, during the times above specified, after notice of the authority and purpose of such peace officer or special agent, shall be guilty of a misdemeanor and may be

forthwith and without a warrant arrested by such peace officer or special agent. A copy of such warrant shall be delivered to the person so keeping such liquors, if he be present at the time of such seizure, and if he be not present, then to the person, if any, apparently in possession of such liquors or of the premises wherein the same are found, and another copy of such warrant shall be posted in a conspicuous place upon said premises. The special agent or peace officer seizing such liquors under said warrant shall give a receipt therefor to the person so keeping such liquors, if present, and if he be not present, then to the person, if any, apparently in possession of such liquors, or in charge of such premises, or in the absence of any such person, he must leave such receipt in the place where the liquors are found. At the time and place specified in the notice contained in such warrant, any person claiming any right, title or interest in the liquors seized under such warrant may interpose a verified answer controverting the allegations of the complaint upon which such warrant was issued. If such answer is interposed, the issue thus framed shall be deemed an action pending in the court of the judge or justice who issued the warrant, between the commissioner of excise of the state of New York and the liquor so seized and may be entitled in the name of the said state commissioner of excise and against the liquors so seized, adding for identification the name of the person or persons interposing such answer and claiming or defending the liquors so seized, and shall be tried in said court as other issues of fact are tried therein, and shall be entitled to the preference provided by section seven hundred and ninety-one, subdivision one, of the code of civil procedure. If no verified answer controverting the allegations of the complaint is interposed, the judge or justice shall proceed to hear the testimony in support thereof. If it be established upon the hearing before said judge or justice or upon the trial of the action, if issue be joined, that the liquors so seized were kept, stored or deposited for the purpose of unlawful sale or distribution within this state, judgment of forfeiture of said liquors to the state shall be entered, which judgment shall provide for the public destruction of such liquors, and the vessels in which the same were contained, by or under the direction of the peace officer or special agent who seized the same, or by or under the direction of the state commissioner of excise; if the testimony produced on the hearing before said judge or justice, or upon such trial before the court,

shall fail to establish that the liquors so seized were kept, stored or deposited for the purpose of unlawful sale or distribution within this state, judgment shall be entered dismissing such complaint and providing that such liquors and the vessels containing the same be returned to the place from which or to the person from whom they were taken. Upon the entry of such judgment, the judge or justice presiding at such hearing or upon such trial shall promptly report to the state commissioner of excise, in writing, the date of the issuing of such warrant, the name and residence of the complainant, the location of the premises searched, giving street and number, if any, the name of the officer or special agent to whom such warrant was delivered, and if liquors were seized, a description of the same and the final disposition thereof. The fees of any peace officer and the necessary expenses of any peace officer or special agent in the performance of his duties under this section shall be a charge on the town or city in which the premises searched are situated, and shall be audited and paid in the same manner as other town and city charges for similar services in criminal proceedings are audited and paid.

Subd. 3. Liquors seized as hereinbefore provided, and the vessels seized containing them, shall not be taken from the custody of the peace officer or special agent making such seizure by a writ of replevin or other process, while the proceeding or trial is pending.

Subd. 4. The payment of a retail liquor dealer's or retail malt liquor dealer's special United States internal revenue tax for the place and covering the period in which such liquors are seized, or the maintenance or posting in any place where such liquors are seized, of a retail liquor dealer's or retail malt liquor dealer's special United States internal revenue tax stamp in force and effect at the time of such seizure, or the posting, keeping or maintaining of a notice or sign of any kind on or about the premises where such liquors are seized indicating that liquors are there sold, kept or given away at any place where traffic is prohibited under the provisions of section sixteen of this act, or any place for which a liquor tax certificate under section eleven of this act has not been issued, shall be prima facie evidence that the liquors so seized, as aforesaid, were kept, stored and deposited in violation of the provisions of this section. The keeping of liquors in any building, not used exclusively for a dwelling, in which traffic is prohibited under the provisions

of section sixteen of this act, shall be prima facie evidence that the same are kept in violation of the provisions of this section.

Subd. 5. No person except one who answers claiming some right, title or interest in the liquor so seized, shall be excused from attending and testifying, or producing any books, papers or other documents before any court or judge or justice, upon any such hearing or trial, upon the ground or for the reason that the testimony or evidence, documentary or otherwise, required of him may tend to convict him of a crime or to subject him to a penalty or forfeiture; but no person shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter or thing concerning which he may so testify or produce evidence, documentary or otherwise, and no testimony so given or produced shall be received against him upon any criminal investigation, trial or proceeding.

§ 14. Section thirty-three of said chapter is hereby amended to read as follows:

§ 33. **Persons liable for violation of this act.**—Any person engaged in the traffic in liquors, whether as officer of a corporation, or association, or as a member of a copartnership, or an individual, shall upon conviction of a violation of any of the provisions of this act be liable for and suffer the penalties imposed therein; and any clerk, agent, employee or servant shall be equally liable as principals for any violation of the provisions of this act, and except as hereinafter provided, each violation of any of the provisions of this act shall be construed to constitute a separate and complete offense, and for each violation on the same day, or on different days, the person or persons offending shall be liable to the penalties and forfeitures imposed by this act; and in the following section providing for penalties and forfeitures when corporations or associations are referred to, and penalties and forfeitures are imposed thereon, the same shall be understood to mean and apply to the officers of such corporation or association. All violations of the liquor tax law, committed by any person on the same day, shall together constitute but one crime, which shall be denominated the crime of "violating the liquor tax law," and it shall be competent to prove, on the trial or hearing, each separate violation committed on said date, provided each violation proved is set forth in the indictment, charge or complaint, in general or specific terms.

§ 15. Section thirty-four of said chapter, as amended by chapter three hundred and twelve of the laws of eighteen hundred and ninety-seven, as amended by chapter three hundred and ninety-eight of the laws of eighteen hundred and ninety-nine, as amended by chapter three hundred and sixty-seven of the laws of nineteen hundred, as amended by chapter four hundred and eighty-six of the laws of nineteen hundred and three, and as amended by chapter six hundred and eighty of the laws of nineteen hundred and five, is hereby amended to read as follows:

§ 34. **Penalties for violation of this act.**— 1. Any person trafficking in liquors, who is prohibited from so doing or who so traffics without having lawfully obtained a liquor tax certificate; or contrary to the provisions of section sixteen of this act; or who shall neglect or refuse to make application for a liquor tax certificate, or give the bond, or pay the tax imposed as required by this act, shall be guilty of a misdemeanor, and upon conviction therefor shall be punished by a fine of not less than two hundred dollars nor more than twelve hundred dollars, provided such fine shall equal at least the amount of one-half of the tax for one year, imposed by this act upon the kind of traffic in liquors carried on, where carried on, or which would be so imposed if such traffic were lawful, and shall also be imprisoned in a county jail or penitentiary for the term of not less than thirty days nor more than one year.

2. Any person, who shall make any false statement in the ap-* application required to be presented to the county treasurer or other officer to obtain a liquor tax certificate, or to obtain a transfer thereof, or who shall violate any of the provisions of section eleven, twenty-one, twenty-two, twenty-three, twenty-four, thirty or thirty-one, shall be guilty of a misdemeanor, and upon conviction therefor shall be punished by a fine of not more than five hundred dollars or by imprisonment in a county jail or penitentiary for a term of not more than one year, or by both such fine and imprisonment, and shall forfeit the liquor tax certificate, and be deprived of all rights and privileges thereunder, and of any right to a rebate of any portion of the tax paid thereon, and if the person convicted be a pharmacist holding a license issued by the board of pharmacy, the said board of pharmacy shall, in addition to said penalties, immediately revoke said license, and no liquor tax certificate shall be issued to any person to traffic

* So in original.

in liquors at said store or place, under subdivision three of section eleven of this act for the term of one year from the date of said conviction; but this clause does not apply to violations of section thirty-one of this act by a person not holding a liquor tax certificate, the punishment for which is provided in the first clause of this section.

3. If there shall be two convictions of clerks, agents, employees, or servants of a holder of a liquor tax certificate, for a violation of any provision of this act, the liquor tax certificate of the principal shall be forfeited, and the said principal shall be deprived of all rights and privileges thereunder, and of any right to any rebate of any portion of the tax paid thereon.

4. No liquor tax certificate shall be issued to any person convicted of a violation of the liquor tax law within three years from the date of such conviction, nor shall any such person have any interest therein, or become a surety on any bond, required under section eighteen of this act, during such period.

5. Any willful violation by any person of any provision of this act, for which no punishment or penalty is otherwise provided, shall be a misdemeanor.

6. Whenever any fine is imposed upon conviction for violation of any provision of the liquor tax law, the judgment in such case must provide that the person thus fined be imprisoned until the fine is satisfied, which imprisonment cannot exceed one day for every dollar of the fine, nor be less than one day for every five dollars of the fine.

7. If the holder of any liquor tax certificate shall be convicted of keeping a disorderly house, in violation of section three hundred and twenty-two of the penal code, or in violation of any municipal ordinance prescribing the same or any similar offense, or be convicted of any offense prescribed in chapter eight or nine of title ten of the penal code, or be convicted of the same or any similar offense prescribed in any municipal ordinance, or be convicted of any felony whatsoever, said certificate holder shall forfeit any and every liquor tax certificate held by him at the time of such conviction, and be deprived of all rights and privileges thereunder. If any clerk, agent, employee or servant of a holder of a liquor tax certificate shall commit any of such offenses at a place for which a liquor tax certificate has been issued, and be convicted thereof, the holder of such liquor tax certificate shall forfeit the same, and be deprived of all rights and privileges thereunder.

8. Upon the forfeiture of any liquor tax certificate, as provided by this section, it shall be the duty of the holder of said certificate, or of any other person having such certificate in his possession or under his control, to immediately surrender such certificate to the officer who issued the same or to his successor in office, who shall forward the same to the state commissioner of excise for cancellation. In case such certificate be not forthwith surrendered, it shall be the duty of the officer who issued the said certificate or his successor in office, immediately upon receiving notice of the forfeiture of any certificate, as provided in this section, or upon the request of the state commissioner of excise, to sign duplicate written demands for the surrender of said certifisate,* setting forth the conviction or convictions causing such forfeiture, and to deliver said demands to the sheriff of the county in which the premises designated in said certificate are located, or to any special agent of the state commissioner of excise, together with a certified copy of the record of each conviction referred to in such demands, and it shall be the duty of said sheriff or special agent, immediately upon the receipt of said duplicate demands and such record or records of conviction, to serve one of such demands, together with such record or records of conviction, upon the holder of said certificate, or upon any other person having such certificate in his possession or under his control, and to take possession of such certificate and to return the duplicate of said demand, with proof of the service thereof and of such record or records of conviction, together with said certificate, to said issuing officer. The sheriff making such service shall be entitled to the same fees therefor as for serving a summons in an action in the supreme court, which fees, and any other fees to which said sheriff would be by law entitled to receive from the state commissioner of excise, shall be legal charges against the county in which the office of the said sheriff is situated, and shall be audited and paid as are other lawful claims.

§ 16. Subdivision one of section thirty-five of said chapter, as amended by chapter three hundred and twelve of the laws of eighteen hundred and ninety-seven, is hereby amended to read as follows:

§ 35. Jurisdiction of courts; reports of courts and court clerks; reports of magistrates.

* So in original.

Subd. 1. Except as otherwise provided by this act, all proceedings instituted for the punishment of any violations of the provisions of this act, the penalties for which are prescribed in subdivision one, two, three or four of section thirty-four, shall be prosecuted by indictment by the grand jury of the county in which the crime was committed, and by a trial in a court of record having jurisdiction for the trial of crimes of the grade of felony; except that any magistrate of the county in which such violations occur shall have jurisdiction, and shall examine on oath the informant or prosecutor and any witnesses he may produce, and shall issue subpœnas for such witnesses as may be named by such prosecutor or informant and examine them on oath, and shall issue a warrant of arrest upon such information and depositions, and shall examine the case as provided by chapter two of title three of the code of criminal procedure; except that where the defendant is required to be taken before the magistrate who issued the warrant, he may, if that magistrate be absent or unable to act, be taken before any magistrate in the county in which the magistrate before whom the warrant is returnable resides, but if it shall appear upon such examination that a crime, not triable by a court of special sessions has been committed, and that there is sufficient cause to believe that the person or persons charged with such crime are guilty thereof, such magistrate shall admit such person or persons to bail, in a sum not less than one thousand dollars, and in default of bail shall commit him or them to the sheriff of the county or if in the city of New York to the keeper of the city prison of the city of New York. A magistrate before whom any person shall be brought, charged with a violation of the provisions of the liquor tax law, shall immediately notify the state commissioner of excise in writing of the fact of such arrest and the disposition of the case, stating the name and residence of each person accused; the date when held for trial or discharged; the name, residence and address of the complainant, and of each witness sworn in support of the charge in case a preliminary examination shall have been had, and shall at the same time transmit a duplicate copy of such report to the district attorney of the county.

§ 17. Section thirty-five of said chapter, as amended by chapter three hundred and twelve of the laws of eighteen hundred and ninety-seven, is hereby amended by adding thereto a new subdivision, to be subdivision three thereof, and to read as follows:

Subdivision 3. The court or officer before whom any person shall be tried for a violation of any provision of this act, or the clerk of the court, if there be a clerk, shall forthwith mail or deliver to the state commissioner of excise a certified statement of the disposition of said case, giving the date thereof, the name of the defendant, the date and place of violation and the name of each witness sworn in support of the charge.

§ 18. Section thirty-six of said chapter, as amended by chapter three hundred and twelve of the laws of eighteen hundred and ninety-seven, as amended by chapter four hundred and eighty-six of the laws of nineteen hundred and three, and as amended by chapter six hundred and eighty of the laws of nineteen hundred and five, is hereby amended to read as follows:

§ 36. **Collection of fines and penalties and forfeitures of bonds; reports of county clerks.**— Upon conviction of any person, whether as officer of a corporation or as member of a copartnership, or as an individual, for keeping a disorderly house, in violation of section three hundred and twenty-two of the penal code, or in violation of any municipal ordinance prescribing the same or any similar offense, and upon conviction of any such person for any offense prescribed in chapter eight or nine of title ten of the penal code, or for the same or any similar offense prescribed in any municipal ordinance, and upon conviction of any such person for any felony whatsoever, the court or officer before whom such conviction shall have been had, or the clerk of the court if there be a clerk, shall forthwith make and file in the office of the clerk of the county in which such conviction shall have been had a certified statement of such conviction and the sentence, if any, to be reported to the state commissioner of excise by said county clerk, as hereinafter provided in the case of convictions for violations of this act. Upon conviction of any person whether as officer of a corporation or as member of a copartnership or as an individual, for a violation of the provisions of this act, the penalty for which is prescribed in section twenty-eight, twenty-nine or thirty-four hereof, the court or officer before whom such conviction shall have been had, or the clerk of the court if there be a clerk, shall forthwith make and file in the office of the clerk of the county in which such conviction shall have been had a certified statement of such conviction and the sentence, if any; and the clerk of said county shall immediately thereupon enter in the docket book, kept by said clerk for the docketing of judgments in said office, the amount of the penalty

or fine imposed, as a judgment against the person so convicted or sentenced, and in favor of the state commissioner of excise, and said county clerk shall also enter in the docket of said judgment a brief statement setting forth the fact that said judgment is for a fine or penalty imposed for a violation of the "liquor tax law," and said county clerk shall immediately mail or deliver to the state commissioner of excise a duly certified transcript of said judgment. If the fine imposed be paid into court or to any officer, the said officer or clerk of the court shall at once pay the same to the county treasurer or special deputy commissioner of the county or borough, who shall give his receipt therefor, and shall at once notify the state commissioner of excise of the payment of such judgment, who shall thereupon execute a satisfaction thereof and forward the same to the said county treasurer or special deputy commissioner, to be delivered to the judgment debtor. If said judgment shall not be paid within five days after such conviction and sentence, the clerk of said county shall issue an execution against the property of such judgment debtor or debtors, against whom said judgment is docketed, directed to the sheriff of the county, and at once deliver the said execution to the said sheriff, who shall forthwith proceed to collect the amount due on said judgment, together with his legal fees and costs, by levy and sale, in the manner now provided by law for the collection of executions against property, of any goods, chattels, furniture, fixtures and leasehold interest, or other property of such judgment debtor or debtors, wherever found. Such levy shall take precedence over any and all liens, mortgages, conveyances or incumbrances taken or had on such property, subsequent to the docketing of said judgment in said clerk's office, and no property of said judgment debtor or debtors shall be exempt from such levy and sale. All moneys collected upon execution under the provisions of this section shall be paid by the officer collecting the same, less his legal fees and costs thereon, to such county treasurer or special deputy commissioner who shall apportion and account for the same as provided by this act. In case such judgment debtor or debtors shall have given the bond provided for in section eighteen of this act, the state commissioner of excise may forthwith proceed to collect from the sureties thereon the amount of such judgment, together with the costs of collection, by due process of law, and the issuing of an execution under the provisions of this act shall not be a condition precedent to the

enforcement of the provisions and penalties of any bond given by such judgment debtor or debtors pursuant to the provisions of this act. At the end of each month every county clerk shall make under his hand and official seal and forward to the state commissioner of excise a written report of all orders or judgments filed or entered in his office during such month in favor of or against the state commissioner of excise, and also a report of all orders or judgments entered in said office in favor of or against any person illegally trafficking in liquor or the holder of a liquor tax certificate in any proceeding or action instituted or brought for the purpose of compelling the surrender and cancellation of a liquor tax certificate, or in favor of or against any county treasurer or special deputy commissioner on account of his having issued or transferred or refused to issue or transfer any liquor tax certificate. Such report shall contain the title of the action or proceeding in which each of said orders or judgments was obtained, the date of each order or judgment, also when filed and entered; and also the substance or purport of such order or judgment; also all indictments for violations of the liquor tax law and all judgments of convictions thereon. Such report shall state the date when each indictment was found, the name of the defendant, the time and place when and where the crime was committed, and the particular offense charged; and in case of a conviction shall state the name of the defendant, the date of the conviction and the judgment pronounced thereon, and if the fine imposed shall have been paid in court a statement of that fact. All sealed indictments shall be included in the first report made by such county clerk after the defendant therein shall have been arrested or admitted to bail. Said county clerk shall also furnish a complete certified copy of any such order, indictment, judgment or record upon the request of the state commissioner of excise. The fees or compensation of such clerk for making such report and for making and furnishing a certified copy of any such order, judgment, indictment or record, at the request of the state commissioner of excise, and any other fees which said clerk or the sheriff of any county would be by law entitled to receive from the state commissioner of excise shall be legal charges against the county in which the office of the said clerk or sheriff is situated, and shall be audited and paid as are other lawful claims.

§ 19. This act shall take effect immediately.

Chap. 351.

AN ACT defining the powers and duties of local health officers and boards of health in the matter of the protection of the people of the state of New York from the disease known as tuberculosis.

Became a law, May 19, 1908, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. **Reports by physicians and others.**— Tuberculosis is hereby declared to be an infectious and communicable disease, dangerous to the public health. It shall be the duty of every physician in the state of New York, to report in writing, on a form to be furnished as hereinafter provided, the name, age, sex, color, occupation, place where last employed, if known, and address, of every person known by said physician to have tuberculosis, to the health officer of the city, town or village in which said person resides, within twenty-four hours after such fact comes to the knowledge of said physician. It shall also be the duty of the chief officer having charge for the time being of any hospital, dispensary, asylum or other similar private or public institution in said state of New York to report in like manner the name, age, sex, color, occupation, place where last employed if known, and previous address of every patient having tuberculosis who comes into his care or under his observation, within twenty-four hours thereafter.

§ 2. **Examination of sputum.**— It shall be the duty of every health officer of a city, town or village, when so requested by any physician, or by authorities of any hospital or dispensary, to make or cause to be made a microscopical examination of the sputum forwarded to him as that of a person having symptoms of tuberculosis, which shall be forwarded to such officer accompanied by a blank giving name, age, sex, color, occupation, place where last employed if known, and address of the person whose sputum it is. It shall be the duty of said health officer promptly to make a report of the results of such examination, free of charge, to the physician or person upon whose application the same is made.

§ 3. **Protection of records.**— It shall be the duty of every health officer of a city, town or village to cause all reports made in accordance with the provisions of the first section of this act, and also all results of examinations, showing the presence of the bacilli of tuberculosis, made in accordance with the provisions of second section of this act, to be recorded in a register, of which he shall be the custodian. Such register shall not be open to inspection by any person other than the health authorities of the state and of the said city, town or village, and said health authorities shall not permit any such report or record to be divulged so as to disclose the identity of the person to whom it relates, except as may be necessary to carry into effect the provisions of this act.

§ 4. **Disinfection of premises.**— In case of the vacation of any apartment or premises by the death or removal therefrom of a person having tuberculosis, it shall be the duty of the attending physician, or if there be no such physician, or if such physician be absent, of the owner, lessee, occupant, or other person having charge of the said apartments or premises, to notify the health officer of said city, town or village, of said death or removal within twenty-four hours thereafter, and such apartments or premises so vacated shall not again be occupied until duly disinfected, cleansed or renovated as hereinafter provided.

§ 5. **Health officer to direct disinfection, cleansing or renovation.**— When notified of the vacation of any apartments or premises as provided in section four hereof, the local health officer or one of his assistants or deputies, shall within twenty-four hours thereafter visit said apartments or premises and shall order and direct that, except for purposes of cleansing or disinfection, no infected article shall be removed therefrom until properly and suitably cleansed or disinfected, and said health officer shall determine the manner in which such apartments or premises shall be disinfected, cleansed or renovated in order that they may be rendered safe and suitable for occupancy. If the health authorities determine that disinfection is sufficient to render them safe and suitable for occupancy, such apartments or premises together with all infected articles therein, shall immediately be disinfected by the health authorities at public expense, or, if the owner prefers, by the owner at his expense, to the satisfaction of the health authorities. Should the health authorities determine that such apartments or premises are in need of thorough

cleansing and renovation, a notice in writing to this effect shall be served upon the owner or agent of said apartments or premises, and said owner or agent shall thereupon proceed to the cleansing or renovating of such apartments or premises in accordance with the instruction of the health authorities, and such cleansing and renovation shall be done at the expense of the said owner or agent.

§ 6. **Prohibiting occupancy until order of health officer is complied with.**—In case the orders or directions of the local health officer requiring the disinfection, cleansing or renovation of any apartments or premises or any articles therein as hereinbefore provided, shall not be complied with within forty-eight hours after such orders or directions shall be given, the health officer may cause a placard in words and form substantially as follows to be placed upon the door of the infected apartments or premises:

"Tuberculosis is a communicable disease. These apartments have been occupied by a consumptive and may be infected. They must not be occupied until the order of the health officer directing their disinfection or renovation has been complied with. This notice must not be removed under the penalty of the law except by the health officer or other duly authorized official."

§ 7. **Prohibiting carelessness of a person having tuberculosis.**—Any person having tuberculosis who shall dispose of his sputum, saliva or other bodily secretion or excretion so as to cause offense or danger to any person or persons occupying the same room or apartment, house, or part of a house, shall on complaint of any person or persons subjected to such offense or danger, be deemed guilty of a nuisance and any persons subjected to such a nuisance may make complaint in person or writing to the health officer of any city, town, or village where the nuisance complained of is committed. And it shall be the duty of the local health officer receiving such complaint to investigate and if it appears that the nuisance complained of is such as to cause offense or danger to any person occupying the same room, apartment, house or part of a house, he shall serve a notice upon the person so complained of, reciting the alleged cause of offense or danger and requiring him to dispose of his sputum, saliva or other bodily secretion or excretion in such a manner as to remove all reasonable cause of offense or danger. Any person failing or refusing to comply with orders or regulations of the local health officer of any city, town or village, requiring him to

cease to commit such nuisance, shall be deemed guilty of a misdemeanor and on conviction thereof shall be fined not more than ten dollars.

§ 8. **Protection of patient's family.**— It shall be the duty of a physician attending a patient having tuberculosis to take all proper precautions and to give proper instructions to provide for the safety of all individuals occupying the same house or apartment, and if no physician be attending such patient this duty shall devolve upon the local health officer, and all duties imposed upon physicians by any sections of this act shall be performed by the local health officer in all cases of tuberculosis not attended by a physician, or when the physician fails to perform the duties herein specified, and shall so report.

§ 9. **Providing that physicians shall make a complete statement of procedure and precautions on a blank to be furnished by the health officer, et cetera.**— It shall be the duty of the local health officer to transmit to a physician reporting a case of tuberculosis as provided in section one of this act, a printed statement and report, in a form approved by the state commissioner of health, naming such procedures and precautions as in the opinion of the said commissioner are necessary or desirable to be taken on the premises of a tuberculosis patient. It shall be the duty of the local health authorities to print and keep on hand an ample supply of such statements and reports and to furnish the same in sufficient numbers to all local physicians. Upon receipt of such statement and report the physician shall either carry into effect all such procedures and precautions as are therein prescribed, and shall thereupon sign and date the same and return it to the local health officer without delay, or, if such attending physician be unwilling or unable to carry into effect the procedures and precautions specified, he shall so state upon this report and immediately return the same to the local health officer and the duties therein prescribed shall thereupon devolve upon said local health officer who shall receive the fee hereinafter provided as payment of the services of the physician if he comply with the duties herein prescribed. Upon receipt of this statement and report the local health officer shall carefully examine the same, and if satisfied that the attending physician has taken all necessary and desirable precautions to insure the safety of all persons living in the apartments or premises occupied by the person having tuberculosis, the said local health offi-

cer shall issue an order upon the treasurer of the city, town or village in favor of the attending physician for the sum of one dollar, thereupon to be paid out of a fund which shall be provided by said city, town, or village. If the precautions taken or instructions given by the attending physician are, in the opinion of the local health officer, not such as will remove all reasonable danger or probability of danger to the persons occupying the said house or apartments or premises, the local health officer shall return to the attending physician the report with a letter specifying the additional precautions or instructions which the health officer shall require him to take or give; and the said attending physician shall immediately take the additional precautions and give the additional instructions specified and shall record and return the same on the original report to the local health officer. It shall further be the duty of the local health officer to transmit to the physician reporting any case of tuberculosis a printed requisition, in a form approved by the state commissioner of health, and printed by the local health authorities and issued in sufficient number to supply local physicians. Upon this requisition blank, shall be named the materials kept on hand by the local health officer for the prevention of the spread of tuberculosis and it shall be the duty of the local health officer to supply such materials as may be specified in such requisition. Any physician may return a duly signed requisition to the local health officer for such of the specified materials and in such amount as he may deem necessary to aid him in preventing the spread of the disease, and all local health officers shall honor, as far as possible, a requisition signed by the attending physician in such case. It shall be the duty of every local health officer to transmit to every physician reporting any case of tuberculosis, or to the person reported as suffering from this disease, provided the latter has no attending physician, a circular of information approved by the state commissioner of health and which shall be provided in sufficient quantity by the local health authorities. This circular of information shall inform the consumptive of the best methods of treatment of his disease and of the precautions necessary to avoid transmitting the disease to others.

§ 10. **Penalty for failure of physician to perform duties or for making false reports.**— Any physician or person practising as a physician who shall knowingly report as affected with tuberculosis any person who is not so affected, or who shall wilfully

make any false statement concerning the name, age, sex, color, occupation, place where last employed if known, or address of any person reported as affected with tuberculosis, or who shall certify falsely as to any of the precautions taken to prevent the spread of infection, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be subject to a fine of not more than one hundred dollars.

§ 11. **Reporting recovery of patient.**— Upon the recovery of any person having tuberculosis, it shall be the duty of the attending physician to make a report of this fact to the local health officer, who shall record the same in the records of his office, and shall relieve said person from further liability to any requirements imposed by this act.

§ 12. **General penalty.**—Any person violating any of the provisions of this act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished, except as herein otherwise provided, by a fine of not less than five dollars nor more than fifty dollars.

§ 13. **Repealing all acts, et cetera.**—All acts and parts of acts contrary to or inconsistent with the provisions of this act are hereby repealed, except that no portion of this act shall apply to the city of New York, nor shall the passage of this act modify or repeal any of the provisions of the charter of the city of New York, or any rule or regulation issued by the department of health of said New York city.

§ 14. This act shall take effect immediately.

Chap. 352.

AN ACT to amend chapter seven hundred and fifty-five of the laws of nineteen hundred and seven, entitled "An act constituting the charter of the city of Rochester."

Became a law, May 19, 1908, with the approval of the Governor. Passed, three-fifths being present.

Accepted by the City.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Sections one hundred and sixty-five, one hundred and sixty-six, one hundred and sixty-seven and one hundred and

sixty-eight of chapter seven hundred and fifty-five of the laws of nineteen hundred and seven, entitled "An act constituting the charter of the city of Rochester," are hereby amended to read respectively as follows:

§ 165. **Collection of taxes by city treasurer.**— The city treasurer must, on the first day of May in each year, proceed to collect and receive taxes from the several persons named in the annual tax rolls; and must immediately after receiving the rolls give public notice by advertisement in the official papers that all persons named in the tax rolls are required to pay their taxes to him at his office on and after the first day of May and before the fifteenth day of the following November, and stating the amounts to be added if payment is not made.

§ 166. **Rates of interest on taxes.**— The city treasurer must receive the amount of any tax levied in the annual tax rolls during the month of May without interest; and to all amounts not paid on or before the thirty-first day of May succeeding the levying of the tax, there is added and becomes a part of said tax, and must be collected by the city treasurer, the following interest: If paid after the last day of May, and on or before the fifteenth day of June, an addition of one-half of one per centum; if paid after the fifteenth day of June, and on or before the thirtieth day of June, an addition of one per centum; if paid after the thirtieth day of June, and on or before the fifteenth day of July, an addition of one and one-half per centum; if paid after the fifteenth day of July, and on or before the thirty-first day of July, an addition of two per centum; if paid after the thirty-first day of July, and on or before the fifteenth day of August, an addition of two and one-half per centum; if paid after the fifteenth day of August, and on or before the thirty-first day of August, an addition of three per centum; if paid after the thirty-first day of August, and on or before the fifteenth day of September, an addition of three and one-half per centum; if paid after the fifteenth day of September, and on or before the thirtieth day of September, an addition of four per centum; if paid after the thirtieth day of September, and on or before the fifteenth day of October, an addition of four and one-half per centum; if paid after the fifteenth day of October, and on or before the thirty-first day of October, an addition of five per centum; if paid after the thirty-first day of October, and on or before the fifteenth day of November, an addition of five and one-half per centum, and if

paid at any time after the fifteenth day of November such addition of five and one-half per centum and also interest from that date upon the whole sum at the rate of ten per centum per annum.

§ 167. **Publication of notices.**— The city treasurer must, immediately after the last day of October, give notice by publication for ten days in all the daily newspapers of the city, that all persons who have omitted to pay their taxes must pay the same to him at his office on or before the fifteenth day of November.

§ 168. **Warrants for taxes.**— It is the duty of the city treasurer upon all taxes remaining unpaid on the fifteenth day of November, in each year, to issue as many warrants as he may deem proper, under his hand and directed to any person whom he may see fit to appoint a collector of the taxes specified in such warrant, commanding such person to levy the amount of such tax and such additional amount of five and one-half per centum interest, except that in no case is the amount so added to be less than twenty-five cents, and also interest upon the whole sum at the rate of ten per centum per annum from the preceding fifteenth day of November, and the fees of said collector, by distress and sale of goods and chattels of the person against whom the said warrants are issued, or of any goods and chattels in his possession, wheresoever the same are found within the city, and to pay the same to the city treasurer, and to return such warrant within twenty days after the date thereof; and no claim of property to be made to such goods and chattels so found in possession of the said party is available to prevent a sale. After the return of any warrant, the treasurer, if he deem expedient, or if so directed by the common council, may issue a second or subsequent warrant for the taxes still remaining unpaid, with said percentage, interest and fees. Every collector holds his appointment during the pleasure of the treasurer and may at any time be removed or suspended by him, and the treasurer and his sureties are liable for any collector and for all moneys that may be collected or received by him. No warrant must be delivered to any collector until he has executed and delivered to the treasurer a bond to the city of Rochester with two or more sureties, approved by the treasurer, conditioned for the faithful performance of his duties as a collector of the taxes specified in such warrant and for the faithful accounting and paying over to the treasurer of all moneys that he may collect or receive under such warrant, and the treasurer must immediately file such bond in the office of the clerk of the county of Monroe, and the same becomes

a lien upon the real estate situate in said county of all persons executing such bond. If any collector fail to return any warrant issued to him as therein required, or fail to pay over to said treasurer all moneys collected or received by him, or fail to render a full and true account thereof, the supreme court or any justice thereof, on the application of the treasurer or of the city of Rochester, has jurisdiction on proof by affidavit or otherwise, to summarily enforce such return, payment or accounting, or all, as the case may be, by attachment and proceedings thereon in the same manner as if such collector were a sheriff or officer of that court. The fees of a collector are five per centum on the moneys collected by him, and while a warrant for a tax is in a collector's hands if such tax is paid to the treasurer, he must collect for the benefit of the collector such fee of five per centum.

§ 2. This act shall take effect immediately.

Chap. 353.

AN ACT to authorize the city of New Rochelle to borrow money, by the issue of bonds, for the uses and purposes of the fire department of said city.

Became a law, May 19, 1908, with the approval of the Governor. Passed, three-fifths being present.

Accepted by the City.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The common council of the city of New Rochelle is hereby authorized and empowered to issue and sell bonds in the name and behalf and upon the credit of said city to an amount not exceeding in the aggregate the sum of twenty-five thousand dollars for the uses and purposes of the fire department of said city, as hereinafter provided.

§ 2. Said bonds shall be issued in the name and under the seal of the said city, signed by the mayor and city clerk thereof, and shall be for the sum of one thousand dollars each, and bearing such interest as the common council shall determine, not exceeding the rate of five per centum per annum, payable semi-annually; they shall be payable in such installments and at such times within twenty-five years from their date as the common

council shall determine, and the principal and interest thereof shall be payable at the office of the city treasurer of said city. Said bonds shall be numbered consecutively from fifty-one to the highest number issued and shall be known and designated as fire department bonds, and shall be in such form as the common council shall prescribe, and shall contain a recital that they are issued pursuant to, and in conformity with the provisions of this act, which recital shall be conclusive evidence of their validity, and of the regularity of their issue; and the said city treasurer shall keep a record in his office of the number of each bond, its date, amount, rate of interest, when payable, and the name of the purchaser or purchasers thereof.

§ 3. Said common council shall sell and dispose of said bonds, or any part thereof, at not less than par, and accrued interest, by sealed proposals after bids therefor have been advertised in the city official newspapers at least once a week for two consecutive weeks, and in a newspaper published in the city of New York, to be designated by the mayor, daily, for at least five days prior to the time of such sale. Said bonds shall be sold to the highest bidder, but the city shall reserve the right to reject any or all bids. The common council shall require each bid to be accompanied by a certified check or cash in such amount as it may determine, to be forfeited to the city if the party or parties to whom the bids may be awarded shall fail to take and pay for the same in accordance with the terms of sale.

§ 4. When the said bonds or any part thereof shall have been sold, the proceeds to the amount of the par value thereof shall be set aside as a fund for the use of the board of fire commissioners of said city, to be used as said board may determine in the purchase of real property and the erection thereon of such buildings and the purchase of such fire apparatus, appliances and horses, and the improvement, enlargement or extension of the fire alarm system of the said city, as the said board of fire commissioners may deem necessary for the use of the fire department.

§ 5. The common council of such city, in the manner provided in chapter one hundred and twenty-eight of the laws of eighteen hundred and ninety-nine, of the state of New York, and the acts amendatory thereof, shall cause such taxes to be levied and collected as may be necessary to pay the principal and interest of the said bonds as they shall become due, until said bonds and interest thereon are fully paid.

§ 6. This act shall take effect immediately.

Chap. 354.

AN ACT to amend the Greater New York charter, in relation to the relief fund of the fire department.

Became a law, May 19, 1908, with the approval of the Governor. Passed, three-fifths being present.

Accepted by the City.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section seven hundred and ninety-one of the Greater New York charter, as re-enacted by chapter four hundred and sixty-six of the laws of nineteen hundred and one, and amended by chapter three hundred and ninety-nine of the laws of nineteen hundred and four, and chapter six hundred and nine of the laws of nineteen hundred and six, is hereby amended to read as follows:

§ 791. The trustee of the relief fund is authorized and empowered, from time to time, to pay a pension out of said relief fund to the widow, child or children or dependent parent or parents of any deceased officer or member of the uniformed force of the said fire department, if the death of such officer or member occur during his service in the said uniformed force, or after he was retired from service in the said uniformed force; provided, that the amount of any such pension to be paid by the said trustee to each of the several representatives of such officer or member as aforesaid, in case there shall be more than one, may be, from time to time, determined by the said trustee according to the circumstances of each case, and that such pension may be ordered to cease and terminate at any time if, in the opinion of the trustee, the circumstances should warrant the same; and further provided, that not more than three hundred dollars shall be paid in any one year to the representative or representatives of such officer or member, and that no part of such sum shall be paid to any such widow who shall marry again, after her remarriage, or to any child after it shall have reached the age of eighteen years. In case any officer or regular or probationary member of the uniformed force of said department was heretofore or is hereafter killed while actually engaged in the performance of duty, or if death ensues, or has heretofore ensued, or resulted in a disease which

caused death, as the immediate effect of injuries received, the trustee of said relief fund shall have the power to award to the widow of such officer or member an annual allowance as a pension, to be paid out of the said relief fund, in an amount not to exceed, except as herein provided, one-half of the salary or compensation of such officer or member at the date of his decease, and in the case of a probationary member in an amount not to exceed one-half the salary or compensation of a fourth grade member. If in the case of any officer or any regular or probationary member of the uniformed force of said department, heretofore or hereafter killed while actually engaged in the performance of duty, one-half of the salary or compensation of such officer or member at the date of his decease does not equal six hundred dollars, the trustee of such relief fund shall have the power to award to the widow of such officer or member an annual allowance as a pension, to be paid out of such relief fund, in an amount not to exceed six hundred dollars. If such officer or member dying leaves no widow surviving him, but leaves a child or children, under the age of eighteen years, or dependent parent or parents, the said trustee shall have the power to award to the legal guardian of such child or children, or dependent parent or parents, for its or their support and maintenance, an annual allowance out of said relief fund, in an amount not to exceed one-half of the salary or allowance of such officer or member at the date of the decease. The amount of such annual allowance to any widow shall not exceed the sum of one thousand dollars, and shall cease upon her death or remarriage, or if she shall have been guilty of conduct which, in the opinion of said trustee, renders further payment inexpedient. The amount of such annual allowance to any one such child, or dependent parent or parents, shall not exceed the sum of five hundred dollars, and in every case such payment shall cease upon the death or marriage of such child, or upon its reaching the age of eighteen years. If such payment to the widow of any such officer or member shall cease by reason of her death, remarriage or misconduct, the said trustee shall have power to make payments to the child or children or dependent parent or parents of such officer or member, if any, as though he had died without leaving a widow surviving him. The widows and orphans and retired members of the Brooklyn fire department, or of any other fire department of any of the municipal and public corporations or parts thereof hereby consolidated, shall be entitled

to receive from the fire department pension fund herein created the amounts which they would respectively have been legally entitled to receive on the thirty-first day of December, eighteen hundred and ninety-seven, from any fire department pension or relief fund heretofore existing in any of said municipal corporations or parts thereof.

§ 2. This act shall take effect immediately.

Chap. 355.

AN ACT to amend the Greater New York charter, in relation to life insurance fund for firemen.

Became a law, May 19, 1908, with the approval of the Governor. Passed, three-fifths being present.

Accepted by the City.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section seven hundred and ninety-two of the Greater New York charter, as re-enacted by chapter four hundred and sixty-six of the laws of nineteen hundred and one, is hereby amended to read as follows:

LIFE INSURANCE FUND.

§ 792. The life insurance fund shall consist of all moneys that are now to the credit of the New York fire department life insurance fund, and the Brooklyn fire department widows' and orphans' relief fund; and all persons who have paid into the said respective funds, and who shall continue to pay into the life insurance fund, shall receive the benefits of said fund as provided in this chapter. There shall be deducted from the monthly pay of each officer and probationary fireman of said department, and from the monthly pension of retired members of said department, and from the pay of such other employees of said department as shall heretofore have availed themselves of this provision until, as hereinafter provided, the amount of said fund shall equal the sum of twenty-five thousand dollars, the monthly sum of one dollar, which shall be received

and deposited by the treasurer of the relief fund to the credit of the New York fire department life insurance fund, in a bank or trust company to be selected by him and to continue to receive and deposit the funds applicable to the same to the credit of said fund. The said treasurer shall make a semi-annual report verified by him of the condition of said fund containing a statement of all receipts and disbursements for or on account of said fund, together with names of all beneficiaries and the amount paid to each, and file said report in the office of the comptroller. When the amount of such fund shall equal the sum of twenty-five thousand dollars, assessment shall only be made to maintain said fund at the said sum of twenty-five thousand dollars. In case of the death of any member or employee of said department in the service thereof, who has availed himself of this provision, or of any pensioned or retired member of said department, and so contributing, there shall be paid to the widow, or, if there be no widow, then to the legal representatives of such deceased member, or employee, or pensioned and retired member, the sum of one thousand dollars out of the moneys so assessed; and in case, by reason of the number of deaths, the aggregate amount of money so provided to be assessed and collected should prove inadequate to make such payment, then the assessment may, in the discretion of said trustee, be increased to not exceeding the sum of two dollars in each month's pay or each month's pension of pensioned and retired members of said department. None but members of the uniformed force and probationary firemen shall hereafter be eligible to membership in this fund. If, in any year, owing to an excessive mortality in the uniformed force, the condition of said life insurance fund shall render it, in the judgment of the said trustee, necessary, a sum not exceeding five thousand dollars may be transferred and paid over from the said relief fund to the said life insurance fund for the use and purpose of said life insurance fund.

§ 2. This act shall take effect immediately.

Chap. 356.

AN ACT to amend the Greater New York charter, in relation to the sale and transfer of horses of the fire, police and street cleaning departments.

Became a law, May 19, 1908, with the approval of the Governor. Passed, three-fifths being present.

Accepted by the City.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section seven hundred and twenty-six of the Greater New York charter, as re-enacted by chapter four hundred and sixty-six of the laws of nineteen hundred and one, as amended by chapter two hundred and sixty-nine of the laws of nineteen hundred and seven, is hereby amended to read as follows:

TO CONTROL AND MANAGE PROPERTY, ET CETERA.

§ 726. The fire commissioner shall possess and exercise full and exclusive power and discretion for the government, management, maintenance and direction of the several buildings and premises, and bell-towers, and property, and appurtenances thereto, and all apparatus, hose, implements, and tools of any and all kinds which may belong to or be in the use of the said department. Whenever any horses used in the fire department, the police department or the street cleaning department, shall have become unfit for use therein, the commissioner of either of such departments, instead of causing such horses to be sold at auction, as provided by section fifteen hundred and fifty-three, may transfer such horses to the custody of the American Society for the Prevention of Cruelty to Animals, providing such society is willing to accept the custody thereof, to be disposed of in such manner as the said society may deem best. If, however, any horse so received into the custody of said society and formerly used in the fire department or the police department shall thereafter be sold by said society, or any profit be derived from its use, the proceeds from such sale or use shall be paid over by said society to the fire commissioner or to the police commissioner, for the benefit of the pension fund of their respective departments;

and if any horse formerly used in the department of street cleaning shall be sold or used by said society, the proceeds of such sale or use, shall be the property of the city of New York, and shall be paid over by said society to the chamberlain of the city. The fire commissioner, the police commissioner and the street cleaning commissioner may, however, transfer any horse or horses which have been condemned, or which may be hereafter condemned as unfit for service in said departments, respectively, to any other department of the city of New York, at such price for each horse as may represent the average price received per horse at the auction sales of such condemned horses, conducted by the department making such transfer during the last two years preceding such transfer in which such auction sales were held.

§ 2. Section fifteen hundred and fifty-three of said act, as amended by chapter five hundred and fifteen of the laws of nineteen hundred and five, is hereby amended to read as follows:

PUBLIC PROPERTY TO BE SOLD AT AUCTION.

§ 1553. All property sold (other than land under water and horses which have been or may be hereafter transferred in accordance with the provisions of section seven hundred and twenty-six of this act) shall be sold at auction, after previous public notice, under the superintendence of the appropriate head of department, except real property including buildings, fixtures and machinery therein, which shall be sold at public auction, after previous public notice, pursuant to a resolution adopted by the commissioners of the sinking fund and such sale shall be under the supervision of said commissioners and not otherwise. The proceeds of all sales made under and by virtue of this act shall, except as herein otherwise specially provided, be by the officer receiving the same immediately deposited with the chamberlain; and the account of sales verified by the officer making the sales shall be immediately filed in the office of the comptroller.

§ 3. This act shall take effect immediately.

Chap. 357.

AN ACT to amend the Greater New York charter, in relation to actions upon bonds and recoveries in abandonment proceedings.

Became a law, May 19, 1908, with the approval of the Governor. Passed, three-fifths being present.

Accepted by the City.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section six hundred and eighty-seven of the Greater New York charter, as re-enacted by chapter four hundred and sixty-six of the laws of nineteen hundred and one, is hereby amended so as to read as follows:

§ 687. **Actions on bonds in abandonment proceedings.**—Any suit, action or proceeding brought or instituted upon any bond or recognizance given in pursuance of the preceding section shall be brought and prosecuted by and in the name of the commissioner of public charities and in said suit, action or proceeding it shall not be necessary to prove the actual payment of money by the commissioner of public charities but the neglect to pay the sum ordered to be paid by competent authority for the support of the wife or children shall be a breach of the undertaking and the measure of damages shall be the sum ordered to be paid and which was withheld at the time of the commencement of the action with interest thereon; after the recovery of damages or the commencement of an action, another action may, in the same manner be brought for further breach of the undertaking, and all moneys recovered in any suit, action or proceeding shall be paid to the commissioner to be by him applied and expended for the support of the wife and children, or either or any of them, of the person against whom the order mentioned and provided for in section six hundred and eighty-five of this act shall have been made. Provided, however, that a surety on an undertaking given to secure the payment of money for the support of the wife or children or both may at any time surrender the defendant to the court or magistrate who made the final order, who shall hold him subject to the final order until another bond or undertaking is given as in said final order provided, and said surety shall be

relieved of any damages upon the undertaking except the sum ordered to be paid and which was withheld at the time of such surrender with interest thereon. If the person charged with the offenses hereinbefore recited or either of them is admitted to bail, the undertaking of his bail shall be for the future appearance of the defendant according to the terms of the undertaking, or that the bail will pay to the commissioner a specified sum in the event of such failure to appear or if such person deposits a sum of money as directed by law instead of giving an undertaking of bail for his future appearance, and if such person shall thereafter fail to appear in accordance with the terms of said undertaking or the terms upon which the money was deposited, then the said magistrate shall enter the fact of said person's nonappearance upon the minutes and the undertaking of his bail or money deposited instead of bail shall thereupon be forfeited.

§ 2. Section six hundred and eighty-eight of the Greater New York charter, as re-enacted by chapter four hundred and sixty-six of the laws of nineteen hundred and one is hereby amended so as to read as follows:

§ 688. **Recoveries in abandonment proceedings.**— When such a bail bond or undertaking is forfeited, an action may be brought in the name of the commissioner of public charities to recover the amount specified in such bail bond or undertaking in which the measure of damages shall be the full amount mentioned in said undertaking and the amount recovered in said action shall be applied and expended for the support of the wife and children, or either or any of them, of the person charged with the offenses hereinbefore recited or either or any of such offenses and when any money has been deposited instead of bail and which shall have been forfeited as hereinbefore provided, said money shall be paid to the commissioner, by the person with whom the said sum of money is deposited, upon presenting to him a certificate from the city magistrate certifying to the forfeiture thereof, which said certificate shall state the name of the person making the deposit, when it is made, the name of the defendant, and that the said sum of money was forfeited on account of the defendant's failure to appear as directed and shall be signed by said magistrate.

§ 3. This act shall take effect immediately.

Chap. 358.

AN ACT to amend the charter of the city of Fulton, generally.

Became a law, May 19, 1908, with the approval of the Governor. Passed, three-fifths being present.

Accepted by the City.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Sections twenty-six, forty-five, fifty-four, sixty-five, sixty-eight and seventy of chapter sixty-three of the laws of nineteen hundred and two, entitled "An act to incorporate the city of Fulton," are hereby amended to read, respectively, as follows:

§ 26. **General powers and duties of the city chamberlain.**— The city chamberlain shall be the fiscal officer of the city, and shall perform such duties incident to his office as the common council may require. He shall keep an office at such place as the common council shall provide and designate, which shall be kept open each day in the year, except Sundays and legal holidays, from nine o'clock in the forenoon until four o'clock in the afternoon, except between the hours of twelve and one, and at such other hours as the common council may from time to time direct. He shall keep separate accounts of the different funds of the city, and shall not pay out any money chargeable to any fund in excess of the amount standing on his books to the credit of such fund, and shall not knowingly pay money from any fund which is not properly chargeable thereto. The city chamberlain shall, before the first meeting of the common council in each month, file with the city clerk a report showing in detail the total expenditures and receipts of city moneys during the last preceding calendar month, a summary statement of the receipts and expenditures of city moneys during that portion of the current fiscal year expiring with the last day of each preceding month, and the balance at the end of such month standing to the credit of each of the city funds. Such statement shall be in such form as shall be prescribed, from time to time, by the common council. An abstract of such report shall be published each month, at least once, in the official newspaper of the city. Before entering upon the duties of his office, and within fifteen days after he shall have received official

notice of his appointment, the city chamberlain shall execute and file an official bond with two or more sureties or some solvent surety company, in such penal sum as may be fixed by the common council, not less, however, than twenty-five thousand dollars, in accordance with section sixteen of the statutory construction law and sections eleven, twelve and thirteen of the public officers law; and for omission so to do he shall be subject to the penalties and liabilities prescribed by section forty-two of the penal code, and sections thirteen, fifteen and twenty of the public officers law. Such bond shall be approved by the common council, a certificate by the city clerk of such approval shall be endorsed thereon, and the bond so endorsed shall be filed and recorded in the clerk's office of the county of Oswego, in the same manner as the official bonds of town collectors, and such bond shall be a lien on all property of such chamberlain and of each of such sureties in the county of Oswego until the conditions of such bond, together with all the costs and charges which may accrue upon the prosecution thereof, shall be fully satisfied, whereupon the common council shall, by resolution, declare that such bond is satisfied, and a copy of such resolution, duly certified by the city clerk, may be filed and recorded in the office of said county clerk and shall operate to discharge the bond and the lien thereof from record. A true copy of such bond and certificate shall be filed in the city clerk's office. It shall be the duty of the chamberlain personally to receive all state, county, city and local taxes and assessments which may be paid at such office. All funds received by him shall be deposited daily in such solvent national bank or banks, trust company or trust companies, within this state, to be selected by him by and with the advice and consent of the mayor, as will pay the highest rate of interest therefor upon daily, weekly or monthly balances, as in their judgment shall be for the best interests of the city. He shall pay no money except by checks consecutively numbered, each showing the number of the order paid thereby, by what authority ordered and from what funds payable. The chamberlain shall retain in his office, and not elsewhere, the possession of the warrants and assessment-rolls which may from time to time be delivered to him by the clerk of the city. He shall enter daily, in suitable books, all sums of money received by him for taxes or otherwise, with the name of the person or corporation on whose account the same shall be paid, and shall, when required,

exhibit the same in his office to the mayor and finance committee of the common council or to any taxpayers for inspection. He shall also enter in a column in the assessment-rolls in his possession, opposite the names of the persons or corporations who shall pay their taxes or assessments, the fact of payment, the amount thereof and the date when paid. He shall also keep a record of all persons, and their respective addresses, who may pay taxes for non-residents of said city, and the residence of such non-residents, so far as he can ascertain the same. The chamberlain shall be the custodian of all securities, obligations and other evidence of debt belonging to said city. He shall annually settle with the common council, and as much oftener as it may require, for all tax rolls and warrants issued to him, and for all moneys received or collected by him for school or other purposes and produce the proper vouchers of the board of education and other boards and officers for all money paid upon the warrants, drafts or orders of said officers or boards. At the time of the annual settlement and immediately preceding the expiration of his term of office, or within such time after the annual settlement as the common council may fix, he shall pay to his successor in office all such moneys remaining in his hands and deliver to such successor in office all assessment-rolls, books, papers and property belonging to said city or pertaining to the affairs of the city in connection with the duties of his office.

§ 45. **Funds not to be transferred; penalty.**— No fund or portion of a fund provided for by this act shall be transferred to any other fund, or used for any other purpose whatever except the purpose for which the same is provided, except, however, the board of public works may, whenever the receipts of the water department exceed the sums necessary to provide for the sinking fund to meet the principal and interest of the water bonds, and pay the current expenses of the water department, transfer any surplus remaining to the improvement fund to be used in payment of the principal and interest of bonds issued or liabilities incurred for the city's share of pavements or sidewalks; except that when there is a surplus in the general city fund more than sufficient for the purposes specified in subdivision nine of section forty-four of this act for the fiscal year, such surplus or a portion thereof may be transferred by the common council to the sewer fund or the improvement fund; and except that the surplus of any fund, raised for a special purpose, remaining to the credit of such special fund after

such purpose has been accomplished may, by resolution of the common council, be transferred to the general city fund. Any officer or member of a board of the city violating the provisions of this section shall forfeit a penalty of one hundred dollars to be sued for and recovered by and for the benefit of the city, and in addition thereto, shall be guilty of a misdemeanor.

§ 3. Section fifty-four of said act is hereby amended to read as follows:

§ 54. **Official newspaper.**— The common council may, at its first meeting in each official year, or as soon thereafter as practicable, fix and determine the legal fee per folio or otherwise, for the publication of all minutes of meetings, notices, by-laws, rules, ordinances and regulations and such reports and other matters as the common council or this act directs to be published in the official newspaper of the city, and thereupon shall designate a newspaper published in said city in which paper all such matters as herein specified shall be published at the fees so prescribed. The newspaper so designated shall be the official newspaper of the city for the ensuing official year for the purposes aforesaid and until the next annual designation, provided said newspaper shall agree, with said common council, to make the aforesaid publications at the fees prescribed by the common council. The common council shall cause the minutes of all its regular and special meetings, the annual reports and estimates and the monthly report of the chamberlain to be published in the official or other paper of the city.

§ 65. **Paving.**— If the board of public works shall decide on its own motion that any street or section of a street ought to be paved, repaved or macadamized, or that any street or section of a street ought to be graded, or if the owners of more than one-half of the real estate fronting thereupon, exclusive of any portion thereof owned by the city, shall petition it therefor, it shall publish for at least two weeks a notice in one or more of the newspapers of the city, that at a time and place to be therein specified, it will meet to make a final determination in respect thereto. Such notice shall contain a brief description of the character, location and extent of the improvement, and of the material to be used therein, and the estimated expense thereof. Any person interested shall be entitled to be heard at such meeting in opposition to such improvement. If before such meeting a protest against

the improvement, in writing signed by the owners of two-thirds of the frontage upon such streets or section of the street, and acknowledged as deeds of real estate are required to be acknowledged, be filed with the said board, it shall not order the proposed improvement, nor shall it again consider the same within one year; but the owners of a majority of the frontage of a smaller section of the same street, not less than one block, may file with said board a petition therefor, and in that case said board may order the improvement as therein requested; provided, however, that no protest shall prevent such proposed improvement where the estimated cost thereof to the abutting owners shall be less than seventy-five cents per front foot on each side of such street or section of a street. If the board shall finally determine to make the improvement, it shall notify the owners of the property to be affected thereby, and said owners may, by a writing signed by a majority thereof and filed with the board of public works, designate two of their number to act with the board of public works in the matter of such improvement, and such persons so appointed shall, for that purpose only, become members of the board of public works, and shall have all the powers, in respect to such improvement only, as is* by this act conferred upon said board of public works. The board of public works so constituted shall record an order for such improvement in its minutes, shall ascertain the whole cost thereof, and shall apportion the same upon all the real estate fronting upon said street or section of a street then to be improved, in proportion to the benefit to the respective lots and parcels thereof, first deducting the share thereof hereby imposed upon the city, and the share of any portion thereof which any street or other railway company may be liable to pay. The word pavement as herein used is intended to include curbs, gutters, and drains or storm sewers. The board of public works shall report such apportionment and the amount for which such railway company shall be liable and a list of all the lots and parcels of land liable to assessment with the sum in which each lot and parcel is benefited by the improvement, to the common council, and shall cause the share of the cost of such improvement for which the city is liable to be paid out of the improvement fund, and if there be not sufficient money in said fund for that purpose, and to meet the necessary street expenses until taxes for the next year are paid in, shall report the deficiency to the common council, which

* So in original.

shall borrow the necessary amount, and pay it into the improvement fund, and include it in the next tax levy, and the amount so borrowed shall be repaid within one year from the proceeds of such tax. But the common council may in its discretion, instead of including the amount so borrowed in the next tax levy, issue bonds for the amount so borrowed, or any part thereof. The common council shall assess upon any railway company its share of the cost of said improvement, which said share shall be the cost of that portion of the improvement between its tracks, the rails of its tracks and two feet in width on each side of the rails outside its tracks, but shall not include the cost of curbs, gutters or storm sewers or any part thereof. Its portion shall be assessed against any railway company in the same manner as other assessments for local improvements, and the amount so assessed shall be a first lien upon all the property and franchises of such railway company within the corporate limits of said city until fully paid. This section shall not only apply to streets or sections of streets repaved or repaired or to be repaved or repaired, but also to such streets or sections of streets that are newly paved or are to be newly paved. The common council shall assess the residue of such expense upon all the real estate fronting upon said street or section of a street, as hereinbefore provided, in proportion to the benefit to said lots and parcels of real estate respectively, and shall designate in such assessment the names of the owners of said real estate, and shall thereupon cause a notice to be published in one or more newspapers, printed in the city, for two weeks, that such assessment has been made, and that the common council will meet at a time and place to be stated in said notice to hear any objections which may be made to such assessment, and in the meantime the said assessment may be examined by any person desiring to examine the same. At the time and place specified in such notice, the common council shall hear such objections as shall be made to the said assessment, and shall review the same and may adjourn such proceedings from time to time, and may alter and amend the said assessment in their discretion; and when it shall deem it to be correct, it shall confirm the same and the said assessment shall be forthwith collected in the same manner as other assessments are collected by the chamberlain as provided in this act, and the amount thereof shall be placed in the improvement fund, and shall be expended only for the purpose of defraying the expense of said

improvement. If any real estate so assessed belongs to the city, the amount of the assessment thereupon shall be paid out of the improvement fund, in the same manner as other expenses for local improvements are paid, and may be raised in like manner. The city shall pay the cost of paving the intersections and also the cost of the construction of all the bridges and extra work not properly a portion of the paving, repairing or macadamizing, but incurred in consequence thereof, in the same manner as the city's share of the entire cost is paid. In case any apportionment or assessment heretofore or hereafter made for a local improvement shall have been or shall be set aside by any court of this state having competent jurisdiction, or shall fail or shall have failed through an irregularity in making or confirming such apportionment or assessment, it shall be lawful for and be the duty of the common council forthwith to cause a new apportionment or assessment including the interest and expenses of the former apportionment or assessment to be levied and collected; and such new apportionment and assessment shall have the same force and effect as though no former apportionment or assessment had been made. The apportionment of the cost of paving, repairing or macadamizing of any street or section of a street may be made either before or after the work is completed, and the amount so apportioned and assessed shall be collected as hereinbefore provided. If the apportionment shall be made before the work is completed, the common council shall borrow whatever amount may be necessary to pay for the construction of the work during its progress and the amount so borrowed shall be placed in the improvement fund, and shall be expended only in payment of such improvement. Any apportionment so made may be corrected, and as corrected shall be apportioned and assessed and confirmed upon the completion of the work in the manner hereinbefore provided, and shall have the same force and effect as though no former apportionment or assessment had been made. The provisions of this section so far as the same are applicable, shall apply in the sprinkling and to the apportionment of the cost thereof, the assessment and collection of the same, of any street or section of a street, except that if a protest against sprinkling, in writing signed by the owners of more than one-half the frontage upon said street or section of a street, and acknowledged as deeds of real estate are required to be acknowledged, be filed with said board, it shall not order the

proposed sprinkling, nor shall it again consider the same within one year; but the owners of a majority of the frontage of a smaller section of the same street, not less than one block, may file with said board a request therefor and in that case said board may order the sprinkling as therein requested. And except also that no part of the cost of any sprinkling shall be apportioned to nor borne by the city.

§ 68. **Cleaning sidewalks of snow and ice.**— It shall be the duty of every owner, occupant or agent of every lot or parcel of land to keep the sidewalks and paths adjoining his lot or piece of land at all times clean and free from snow, ice and other obstructions. It shall be the duty of such owner, occupant or agent to remove new ice and freshly fallen snow from such sidewalk or path before twelve o'clock noon of each day and to keep the same so cleaned and removed at all times. In case such owner, occupant or agent shall neglect or refuse to clean said sidewalk or path, he shall be subject to such fine or penalty therefor as shall be prescribed by the board of public works, and in addition thereto the superintendent of public works shall, in such case, proceed to clean the same without notice to such owner, occupant or agent, in which case he shall file a verified statement of the fact, and of the expense thereof, within ten days, with the city clerk. The city clerk shall give immediate written notice thereof to the owner, occupant or agent, by mail, requiring the payment of such expense to the city chamberlain within ten days after the mailing of such notice. If such expense be not paid to the city chamberlain within the time prescribed therefor, the same shall thereupon be assessed by the common council and collected the same as other local assessments.

§ 70. **Work may be done by contract; manner of execution of contracts.**— Except as herein otherwise provided, all work within the purview of this title may, in the discretion of the board of public works, be done by contract, to be let to the lowest bidder under the regulations and limitations prescribed in this act. All contracts entered into by said board of public works shall be in writing, approved as to form by the city attorney, and shall be signed by the president of said board and attested by the city clerk under the seal of the city in the following form:

The City of Fulton,

by _____,
President Board of Public Works.

Attest

_____, Seal.
City Clerk.

§ 2. Such chapter is hereby amended by adding thereto five new sections, to be sections one hundred eighty-seven, one hundred eighty-eight, one hundred eighty-nine, one hundred eighty-nine-a and one hundred eighty-nine-b, to read respectively as follows:

§ 187. **City hospital.**— Whenever title to a suitable site for a hospital, with buildings thereon wherein not less than five patients at a time can be accommodated, shall be acquired by the city by gift, grant, devise, or in any other manner, the common council shall, at the next general city election, submit to the people a proposition to raise the sum of fifteen hundred dollars annually by general tax for the support and maintenance of such hospital. If the proposition so submitted be carried at such election, the common council shall include in each annual tax levy thereafter the sum of fifteen hundred dollars, which, when collected, shall be credited to the general city fund and paid over by the chamberlain in quarterly payments to the treasurer of the board of governors of the city hospital. The sum so raised for hospital purposes may be increased whenever a proposition therefor shall be submitted and adopted at a general city election in the manner provided by the election law of this state.

§ 188. **Board of governors of city hospital.**— The affairs of the city hospital shall be managed by a board of sixteen governors, who shall serve without pay. The mayor shall be ex-officio a member of said board and the president thereof. The first board, aside from the mayor, shall be composed of the directors of the present Fulton city hospital, as follows: Thomas Hunter, Charles J. Bacon and William M. Wells, who shall serve for the term of five years from the first day of January, nineteen hundred and nine; L. Fowler Joy, George C. Webb and Norman H. Haviland, who shall serve for the term of four years from the first day of January, nineteen hundred and nine; Charles R. Lee, Albert L. Warner and Joshua W. Rigley, who shall serve

for the term of three years from the first day of January, nineteen hundred and nine; Giles S. Piper, Frederick A. Gage and Thomas H. Marvin, who shall serve for the term of two years from the first day of January, nineteen hundred and nine; Erwin J. Cusack, H. Lester Paddock and Harry L. Platt, who shall serve for the term of one year from the first day of January, nineteen hundred and nine. Thereafter, and on or prior to the first day of January in each year, the mayor shall appoint three governors, who shall serve for a term of five years from the first day of January after their appointment. In case of a vacancy in said board the same shall be filled by appointment by the mayor for the balance of the unexpired term. No person shall be appointed to said board who is not qualified to vote upon a proposition to raise money at a city election. Each governor named in or appointed under the provisions of this section shall, before entering upon the duties of the position, take and file with the city clerk the constitutional oath of office.

§ 189. **Organization of board of governors, its powers and duties.**— The said board of governors, at its first meeting, shall elect from its members a vice-president, secretary and treasurer. The board shall have full power and it shall be its duty to adopt, and from time to time it may amend, modify or repeal, rules, regulations and by-laws for its own government and for the government, regulation and control of the hospital, its inmates and employees, the hospital buildings and the grounds and property appertaining thereto; to build, repair and keep in repair the city hospital and such outbuildings as shall be necessary for hospital purposes, and for that purpose all sums of money received by the city or said board of governors for hospital purposes by gift or devise shall be known as the hospital fund and shall be paid over to the city chamberlain and by him kept separate from other funds, and all interest received thereon shall be credited to such hospital fund; such fund shall be paid over by order of the common council to the treasurer of the hospital board from time to time and in such amounts as the board of governors shall certify to the common council to be necessary for hospital purposes.

§ 189-a. **Acquisition of additional lands for hospital purposes.**— Whenever in the judgment of the board of governors it shall be necessary to acquire additional lands for hospital purposes, and sufficient funds are available therefor, said board may purchase the same for and on behalf of the city. In case said

board is not able to agree with the owner or owners for the purchase of such additional lands, the common council shall proceed to acquire the same by condemnation proceedings under the provisions of the condemnation law of this state.

§ 189-b. **Annual report of board of governors.**— The board of governors shall, at the close of the fiscal year, make a written report to the common council of all expenditures made or incurred by said board during such year, showing separately and by items the amount expended from each fund and the balance standing to the credit of each fund.

§ 3. This act shall take effect immediately.

Chap. 359.

AN ACT to enable the city of Oneida to collect unpaid taxes levied by the common council of the city of Oneida, prior to July first, nineteen hundred and seven, to review and correct the assessments therefor, and to sell the lands upon which said taxes were assessed for such unpaid taxes.

Became a law, May 19, 1908, with the approval of the Governor. Passed, three-fifths being present.

Accepted by the City.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The city chamberlain of the city of Oneida is hereby authorized and directed in all cases where any taxes levied or imposed, or attempted to be levied or imposed, by the common council of the said city on any land in said city of Oneida prior to the first day of July, nineteen hundred and seven, remain unpaid and in arrears, to collect and receive same without any penalty or interest thereon during the period of sixty days from the date of the first publication of the notice hereinafter provided for. The city chamberlain of said city shall within twenty days after the passage of this act cause to be published in the official newspapers of said city of Oneida a general notice requiring the owner or owners of any land in said city affected by, or against which there remains any such unpaid taxes, and all other persons having any interest in or lien upon such land, to pay the

amount of said unpaid taxes without interest or penalty, to the said city chamberlain within sixty days from the date of the first publication of said notice, or to present to the common council of the city of Oneida within thirty days from the date of the first publication of said notice their objections in writing, if any, to the payment of such tax or taxes remaining unpaid on the assessment rolls on file with the city chamberlain, such objections to state the grounds on which it is claimed that any such tax or taxes should be reduced or remitted, or the assessments as made on said rolls should be in any way altered or corrected. The common council of the said city of Oneida shall have the power and authority, and it shall be its duty after the expiration of said period of thirty days from the first publication of such notice, to consider such objections and to reduce and remit, in whole or in part, any such unpaid taxes as may seem just and equitable, and to review and consider the assessment for such unpaid taxes, and whether objections are made or not, to correct any such assessment, or reduce or remit any such tax where it shall appear just and equitable so to do, the reasons for such alteration, reduction or remission to be stated in the resolution directing same.

§ 2. Within thirty days after the expiration of said period of sixty days from the first publication of said notice, the chamberlain shall make and deliver to the board of assessors a transcript of any and all such taxes which remain unpaid, and it shall be the duty of the board of assessors within thirty days after such transcript is received by them, to make and deliver to the chamberlain a statement containing a brief general description of the location, boundary and estimated quantity of each parcel of land on which any such tax remains unpaid, and in case such lands shall have been erroneously assessed, then it shall be the duty of said assessors to make and include in said statement a correct assessment at the same valuation as before, and such corrected assessment and amount of taxes levied upon said lands, shall be as valid and effectual for all purposes as though they had originally been so stated.

§ 3. As soon as possible after the completion of the proceedings hereinbefore mentioned, and on or before September first, nineteen hundred and eight, the chamberlain shall proceed to advertise and sell the lands upon which such taxes were imposed, for the payment of any such tax which remains unpaid, or the part remaining unpaid, and the expenses of such sale, as provided

by the city charter of the city of Oneida, shall also be a charge upon such lands.

§ 4. No other notice or proceeding except as specified in this act shall be required for the collection or reassessment of said delinquent taxes, and the failure heretofore to give any notice or take any proceeding provided by the city charter of the city of Oneida for the collection or enforcement thereof shall not in any way invalidate or affect the lien of such imposed taxes upon the lands against which such taxes are assessed for the payment of same.

§ 5. In giving notice of the sale of such lands for such unpaid taxes; in conducting such sale; in the disposition of the proceeds thereof; in the redemption of lands so sold; in giving notice of redemption and in making conveyance of the lands so sold if not redeemed, all proceedings shall be pursuant to the provisions of the charter of the city of Oneida; and each and every act and proceeding not hereinbefore specifically regulated, relating to the sale, redemption and conveyance of said lands and the expenses thereof and the disposition of the proceeds of such sale shall be governed and controlled thereby, and in the same manner and to the same effect as though such sale had been regularly made in due course after said taxes were originally levied.

§ 6. The time within which any legal action or proceeding shall be pending, affecting any proceeding hereunder, or in any way affecting the collection of said delinquent taxes, shall not be deemed a part of the several time limitations as hereinbefore provided, nor shall this act affect any action or proceeding now pending and affecting any of said unpaid delinquent taxes.

§ 7. This act shall take effect immediately.

Chap. 360.

AN ACT to amend the state charities law, relative to purchases, contracts and estimates by state charitable institutions.

Became a law, May 19, 1908, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section forty-eight of chapter five hundred and forty-six of the laws of eighteen hundred and ninety-six, en-

titled "An act relating to state charities," constituting chapter twenty-six of the general laws," as amended by chapter two hundred and fifty-two of the laws of nineteen hundred and two, chapter four hundred and seventy-three of the laws of nineteen hundred and three, and four hundred and fifty-seven of the laws of nineteen hundred and five, is amended to read as follows:

§ 48. **Purchases.**—All purchases for the use of the state charitable institutions, of the New York State School for the Blind or of the Elmira Reformatory shall be made for cash or on credit or time not exceeding thirty days; every voucher shall be duly filled up, and with every abstract of vouchers paid, there shall be proof on oath that the voucher was properly filled up and the money paid. The board of managers or trustees shall make all needful rules and regulations to enforce the provisions of this section. The fiscal supervisor, a member or officer of the state board of charities or manager or officer of any such institution, shall not be interested, directly or indirectly, in the furnishing of materials, labor or supplies for the use of any such institutions nor shall any manager or trustee act as attorney or counsel for the board of managers or trustees thereof. Such contracts shall not be let except in conformity with the provisions of this act in relation to estimates. All goods for the use of such institutions except those furnished pursuant to law by some other institution of the state shall be bought, as far as practicable, of manufacturers or their immediate agents. All contracts, if let, shall, subject to the provisions of this article relating to estimates, be awarded to the lowest responsible bidder. Each of such institutions may manufacture such supplies and materials to be used in the institution as can be economically made therein. Between the first day of July and the thirtieth day of September in each year the fiscal supervisor shall call the superintendents of the state charitable institutions, the Elmira Reformatory and the New York State School for the Blind to meet at his office in Albany. The fiscal supervisor shall notify the president of the board of managers or trustees of each state charitable institution and of the Elmira Reformatory and the New York State School for the Blind, at least ten days in advance of such meeting of the superintendents, and each such president may designate a member of the board of managers or trustees of which he is president to attend such meeting as a representative of such boards. The necessary traveling expenses of a manager or trustee in attend-

ance upon such meeting shall be paid in the same manner as the traveling expenses of managers or trustees when in attendance upon meetings of boards of managers or trustees. The superintendent and managers or trustees present at such meeting shall consider, and shall determine, subject to the power granted to the fiscal supervisor in section forty-five of this article, the following matters:

1. Which articles of supplies it is practicable to purchase for all the state charitable institutions, the New York State School for the Blind and the Elmira Reformatory, or some of them, by joint contracts.

2. The specifications for articles of supplies to be purchased by joint contracts.

3. The provisions of the contracts under which articles of supplies are to be purchased jointly.

At such meetings of superintendents and managers or trustees there shall be designated by those present a purchasing committee, to consist of not more than six superintendents, who shall serve as such purchasing committee until the next annual meeting of superintendents and managers or trustees. Such meeting of superintendents and managers or trustees may refer to such purchasing committee any matters which might be considered and determined by such meeting of superintendents and managers or trustees. Such purchasing committee shall meet whenever so requested by the fiscal supervisor and shall possess the same powers as the annual meeting of superintendents and managers or trustees provided for in this section. Such purchasing committee may appoint a secretary who is also a stenographer and may also consider proposals and make awards under joint contract for the purchase of staple articles of supplies for some or all of the state charitable institutions, the Elmira Reformatory and the New York State School for the Blind, and shall appoint a committee of two to execute joint contracts in accordance with such awards, subject to the approval of the fiscal supervisor. All powers conferred in this section upon the annual meeting of superintendents and managers or trustees, and upon the purchasing committee shall be exercised subject to the powers now possessed by, or hereafter conferred upon, the fiscal supervisor of state charities.

§ 2. This act shall take effect immediately.

Chap. 361.

AN ACT to amend chapter three hundred and sixty of the laws of eighteen hundred and ninety-seven, entitled "An act to incorporate the city of Geneva," in relation to allowance of claims."

Became a law, May 19, 1908, with the approval of the Governor. Passed, three-fifths being present.

Accepted by the City.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section thirty-three of chapter three hundred and sixty of the laws of eighteen hundred and ninety-seven, entitled "An act to incorporate the city of Geneva," is hereby amended to read as follows:

§ 33. The mayor, the president of the common council and the treasurer shall constitute a board of audit. All pecuniary claims and demands upon contract against the city and every department thereof shall, before the same are paid, be referred to the board of audit, which shall examine into the correctness of the same, and of the items thereof, as to amount, and as to the value, quantity and extent of all material furnished and of all labor and services performed for such city or department. Such examination shall be made as speedily as practicable and the result thereof reported with the recommendation of the board to the common council in case of claims against the city, and in other cases to the department in which the same originated. The board of audit shall have power and it shall be its duty to investigate and audit the accounts of every department of the city government; it shall have access to all books and accounts of all the departments and of all officers of the city, and may compel the attendance of witnesses and the production of papers before it, by subpoena, noncompliance with which shall be a misdemeanor; and any intentional false swearing as to any material fact by any witness under examination by the board of audit shall be perjury. It shall, from time to time, make such reports to the common council as to the accounts and expenditures of the several officers and departments of the city government as it shall deem expedient. No bill or claim against the city or any department thereof shall be paid or allowed before the board of audit shall have reported favorably thereon as herein

provided. No action or proceeding to recover or enforce any claim, debt or demand against the city shall be brought until the expiration of thirty days after the claim, debt or demand shall have been presented to the common council for audit. All actions brought against the city upon any contract liability, expressed or implied, must be commenced within one year from the time the cause of action accrued, or if for injuries to the person or property, caused by negligence, within one year from the time of receiving the injuries, and in other cases within six months after the refusal of the council to allow the claim; and no action or proceeding shall be maintained against the city for personal injuries unless notice in writing of the intention to claim damages and of the time and place at which the injuries were received, and the nature and extent of such injuries, shall have been filed with the corporation counsel within one month after such injury shall have been received. No civil action shall be maintained against the city for damages or injuries to the person sustained in consequence of the existence of snow or ice upon any sidewalk, crosswalk or street of the city, unless, previous to the occurrence resulting in such damage or injuries, written notice of the existence of such snow or ice, relating to the particular place, shall have been filed in the office of the board of public works of the city and it shall be made to appear that there was a failure or neglect to cause such snow or ice to be removed, or the place otherwise made reasonably safe within a reasonable time after the filing of such notice.

§ 2. This act shall take effect immediately.

Chap. 362.

AN ACT to amend the religious corporations law, relative to organization and conduct of corporate meetings and qualifications of voters thereat of denominations not specifically otherwise provided for in said law.

Became a law, May 19, 1908, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section eighty-five of chapter seven hundred and twenty-three of the laws of eighteen hundred and ninety-five,

entitled "An act in relation to religious corporations, constituting chapter forty-two of the general laws," as amended by chapters three hundred and twenty-four and nine hundred and sixty-nine of the laws of eighteen hundred and ninety-six, and chapter two hundred and six of the laws of nineteen hundred, is hereby amended to read as follows:

§ 85. **Organization and conduct of corporate meetings; qualifications of voters thereat.**—At a corporate meeting of an incorporated church to which this article is applicable the following persons and no others, shall be qualified voters, to wit: All persons of full age, who are then members in good and regular standing of such church by admission into full communion of membership therewith in accordance with the rules and regulations thereof, and of the governing ecclesiastical body, if any, of the denomination or order to which the church belongs, or who have been stated attendants on divine worship in such church and have regularly contributed to the financial support thereof during the year next preceding such meeting; and any incorporated church in connection with the congregational denomination, or with the denomination known as Disciples of Christ, may at any annual corporate meeting thereof, or any corporate meeting called pursuant to the provisions of this article, if notice of the intention so to do has been given with the notice of such meeting, determine that thereafter only members of such church shall be qualified voters at corporate meetings thereof. The presence at such meetings of at least six persons qualified to vote thereat shall be necessary to constitute a quorum. The action of the meeting upon any matter or question shall be decided by a majority of the qualified voters voting thereon, a quorum being present. The first named of the following persons who is present at such meeting shall preside thereat, to wit: The minister of such church, the officiating minister thereof; the officers thereof in the order of their age beginning with the oldest, any qualified voters elected therefor at the meeting. The presiding officer of the meeting shall receive the votes, be the judge of the qualifications of voters and declare the result of the votes cast on any matter. The polls of an annual corporate meeting shall continue open for one hour, and longer in the discretion of the presiding officer, or if required, by a majority of the qualified voters present. At each annual corporate meeting, successors to those trustees whose terms of office then expire, shall be elected from the qualified voters by ballot, for a term of

three years thereafter; provided, however, that the Methodist Episcopal Church in the boroughs of Brooklyn and of Queens, in the city of New York, which is now or hereafter may become a beneficiary of the Brooklyn Church Society of the Methodist Episcopal Church, by receiving from said society contributions to its current income, or by loan or loans, gift or gifts from the same, may elect to fill any vacancy or vacancies existing in its board of trustees by expiration of term, or for any other cause, at any corporate meeting legally called, not to exceed at any time three members of said board of trustees, who shall have been nominated to such positions by the Brooklyn Church Society, of the Methodist Episcopal Church without regard to any qualifications for trustees required by this act, and such trustees or their successors, nominated and elected in the same manner, shall continue in office so long as said church shall be a beneficiary of said society. Notice of the expiration of term of said trustees shall be given by the said church to the said society not less than two months before said expiration of term.

§ 2. This act shall take effect immediately.

Chap. 363.

AN ACT to amend the religious corporations law, in relation to the conveyance of real property by a religious corporation to another religious corporation.

Became a law, May 19, 1908, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section eleven of chapter seven hundred and twenty-three of the laws of eighteen hundred and ninety-five, entitled "An act in relation to religious corporations, constituting chapter forty-two of the general laws," as amended by chapter three hundred and thirty-six of the laws of eighteen hundred and ninety-six, chapter five hundred and twenty-one of the laws of nineteen hundred, chapter two hundred and twenty-two of the laws of nineteen hundred and one and chapter two hundred and eight of the laws of nineteen hundred and two is hereby amended to read as follows:

§ 11. **Sale, mortgage and lease of real property of religious corporations.**—A religious corporation shall not sell, or mortgage any of its real property without applying for and obtaining leave of the court therefor pursuant to the provisions of the code of civil procedure. The trustees of an incorporated Protestant Episcopal church shall not vote upon any resolution or proposition for the sale, mortgage or lease of its real property unless the rector of such church, if it then has a rector, shall be present, and shall not make application to the court for leave to sell or mortgage any of its real property without the consent of the bishop and standing committee of the diocese to which such church belongs; but in case the see be vacant, or the bishop be absent or unable to act, the consent of the standing committee with their certificate of the vacancy of the see or the absence or disability of the bishop shall suffice. The trustees of an incorporated Roman Catholic church shall not make application to the court for leave to mortgage, lease or sell any of its real property without the consent of the archbishop or bishop of the diocese to which such church belongs or in case of their absence or inability to act, without the consent of the vicar-general or administrator of such diocese. The petition of the trustees of an incorporated Protestant Episcopal church or Roman Catholic church shall, in addition to the matters required by the code of civil procedure to be set forth therein, set forth that this section has also been complied with. But lots, plats or burial permits in a cemetery owned by a religious corporation may be sold without applying for or obtaining leave of the court. No cemetery lands of a religious corporation shall be mortgaged while used for cemetery purposes. Except as otherwise provided in this chapter in respect to a religious corporation of a specified denomination, any solvent religious corporation may, by order of the supreme court obtained as above provided in proceedings to sell, mortgage or lease real property, convey the whole or any part of its real property to another religious corporation, for a consideration of one dollar or other nominal consideration; and for the purpose of applying the provisions of title two of chapter twenty-three of the code of civil procedure, a proposed conveyance for such consideration shall be treated as a sale, but it shall not be necessary to show, in the petition or otherwise, nor for the court to find, that the pecuniary or proprietary interest of the grantor corporation will be promoted thereby; and the interests of such grantor shall be deemed to be promoted if it appears that

religious or charitable objects generally are conserved by such conveyance; provided, however, that such an order shall not be made if tending to impair the claim or remedy of any creditor.

§ 2. This act shall take effect immediately.

Chap. 364.

AN ACT to validate the proceedings of the board of trustees of the village of Ossining, relative to the improvement of certain streets, the fixing of the districts of assessment, the making of contracts and incurring of obligations therefor, and to authorize the issuance and sale of bonds to pay the cost thereof.

Became a law, May 19, 1908, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. All proceedings heretofore taken by the board of trustees of the village of Ossining for the regulating, grading and paving of the following streets or parts of streets in said village, to-wit: Secor road from Depot square to State street; Main street from State street to Croton avenue, and thence to a point on Croton avenue at the easterly line of the property of the First National Bank (with portions of North and South Highland avenues); and Water street from Central avenue to Snowden avenue; together with all proceedings of said board designating the said streets as main streets under section ninety of the village charter and fixing the districts of assessments of the property in the judgment of said board benefited by each of said improvements under section ninety-three of the village charter, and the assessments heretofore levied for said improvements against the property along or abutting on said streets and each of them benefited by said improvements, and all contracts heretofore made for the work of said improvements, and all temporary notes or bonds heretofore given in payment for said work, or to raise money on account thereof, are hereby validated and legalized.

§ 2. The board of trustees of said village is hereby authorized to issue and sell the bonds of said village for the purpose of raising money to pay the two-thirds of the cost of said improvements chargeable against the village at large, together with the two-thirds of the estimated cost of completing said improvements and the

expense incidental thereto and of any damages occasioned by the changes of grades incident to such improvements (deducting from such total cost the portion thereof heretofore assessed and hereafter to be assessed against any street surface railroad company). The said bonds shall bear interest at a rate not exceeding five per centum per annum, payable semi-annually, and shall be issued in such amount as may be determined by said board subject only to the limitations contained in section ninety-five of the village charter as amended. Said bonds may be issued all at one time or from time to time as said board may determine. Neither section one hundred and twenty-nine of the general village law nor section five of the general municipal law shall apply to the issuance and sale of said bonds, but the same shall be issued and sold pursuant to the provisions of section ninety-five of the charter of said village. Provision shall be made in the annual tax levy for the payment of the interest and principal of said bonds as the same become due.

§ 3. The board of trustees of the village is hereby further authorized to issue and sell the bonds of said village for the purpose of paying the balance of the cost of said improvements, including the balance of the estimated cost and the expense incidental thereto and any damages occasioned by the changes of grades, being the portion of the cost of such improvements heretofore assessed and which may hereafter be assessed against the property included in the districts of assessments in the judgment of said board of trustees benefited by said improvements, and also for the purpose of paying the cost of such improvements heretofore assessed and which may hereafter be assessed against any street surface railroad company. The said bonds shall not exceed in the aggregate the amounts so assessed and to be assessed, less the amount of any assessments for said improvements paid in prior to the date of the passage of the resolution authorizing the sale of said bonds, and shall bear interest at a rate not exceeding five per centum per annum, payable semi-annually, and shall mature at such time or times not exceeding five years from their date or in such installments as shall in the judgment of the board of trustees most nearly approximate the probable collection of the assessments remaining unpaid. Said bonds may be issued all at one time or from time to time as said board may determine. The said assessments when paid shall be held and applied to the payment of the principal and interest of said bonds and the board of trustees shall provide by general tax for the payment of such bonds and interest as they

become due in so far as the collection of said assessments are insufficient to meet the same. Neither section one hundred and twenty-nine of the general village law nor section five of the general municipal law shall apply to the issuance and sale of said bonds. Said bonds shall be issued and sold pursuant to the provisions of section ninety-six of the charter of the said village.

§ 4. Nothing in this act shall affect any action or proceeding now pending in any court.

§ 5. This act shall take effect immediately.

Chap. 365.

AN ACT to amend the consolidated school law, relative to the apportionment and distribution of state and other school moneys.

Became a law, May 19, 1908, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section twelve of title two of chapter five hundred and fifty-six of the laws of eighteen hundred and ninety-four, entitled "An act to revise, amend and consolidate the general acts relating to public instruction," as amended by chapter one hundred and sixty-six of the laws of nineteen hundred and four, is hereby amended to read as follows:

§ 12. **Moneys, when payable.**— At least one-half of the moneys so annually apportioned by the commissioner of education shall be payable on or before the first day of March, and the remaining part of such moneys on or before the fifteenth day of May, in each year, next after such apportionment, to the treasurers of the several counties and the chamberlain of the city of New York, respectively; and the said treasurers and the chamberlain shall apply for and receive the same as soon as payable.

§ 2. The opening paragraph of section thirteen of such title, preceding subdivision one thereof, is hereby amended to read as follows:

§ 13. The school commissioner or commissioners of each county, shall proceed, at the county seat, on or before the fifteenth day of February, in each year, to ascertain, apportion and divide the state and other school moneys as follows:

§ 3. This act shall take effect immediately.

Chap. 366.

AN ACT to amend chapter two hundred and sixty-six of the laws of eighteen hundred and ninety-three, entitled "An act to amend, revise and consolidate the acts relating to the village of Horseheads, in Chemung county, and to enlarge the powers of the corporation of said village," generally.

Became a law, May 19, 1908, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivisions seventeen, twenty-six and twenty-eight of section twenty-two of chapter two hundred and sixty-six of the laws of eighteen hundred and ninety-three, entitled "An act to amend, revise and consolidate the acts relating to the village of Horseheads, in Chemung county, and to enlarge the powers of the corporation of said village," being originally sections seventeen, twenty-six and twenty-eight of such chapter and renumbered subdivisions of section twenty-two as aforesaid, by chapter six hundred and eighty-three of the laws of eighteen hundred and ninety-four, are hereby amended to read, respectively, as follows:

17. To make regulations for taxing and confining dogs, and for destroying such as may be found running at large contrary to any ordinance, and to regulate or restrain their running at large.

26. To regulate and control all existing cemeteries belonging to said village, provide new ones and make all needful rules and regulations respecting the same. All moneys received from the sale of lots in said cemeteries, shall be paid to the treasurer of said village and held by him as a separate fund, to be used under the direction of the trustees for defraying the necessary expenses for maintaining and improving cemeteries only. Any person owning a lot in said cemeteries, or the executor of the last will and testament of such owner when so authorized by said last will and testament, may deliver to the board of trustees of the village of Horseheads, which shall receive the same, a sum of money not less than one hundred nor exceeding three hundred dollars for each lot of said owner, as a permanent fund for keeping such lot in order, and no claim for the repayment of such sum, or any part thereof,

shall therafter* be made against the village of Horseheads, or said board of trustees by any person or persons. Said board of trustees shall invest and keep invested, securely and as advantageously as shall be practicable, in securities in which the funds of savings banks incorporated under article three of the banking laws of the state of New York may be invested, all moneys so delivered to and received by it, and the interest from each sum so delivered and received shall, during each year after the receipt thereof, be expended in keeping in order the lot for the benefit of which such sum was received. Any person may give or bequeath to said board of trustees any sum of money, to be wholly expended by said board, within a time specified by the donor, or, if no time be so specified, to be expended by the said board in its discretion in keeping in order or beautifying such lot or lots as may be designated in connection with such gift or bequest, or, in case no such designation shall be made, then in keeping in order and beautifying said cemeteries. The village treasurer shall be the treasurer of the board of trustees, and shall receive and deposit in the bank selected for village deposits, all moneys from the sale of lots and other sources, and also all penalties collected for violation of the village ordinances in relation to said cemeteries, and shall pay all expenses incurred on the cemeteries upon the order of the board of trustees, which order or check shall in all cases be signed by the president of the village of Horseheads, and the village clerk.

28. To keep the roads, avenues, streets, public buildings, public grounds and places of the village in good order and repair. To construct sewers, culverts and drains. To regulate and prescribe the width, line and grade of streets, avenues, lanes and sidewalks, to pave, plank or flag roads, gutters, streets, crosswalks; to alter and change the grade or otherwise improve roads, avenues, streets and lanes and sidewalks, to drain stagnant water to fill up low grounds if a nuisance or detrimental to health. The president and trustees may cause a street in the village or part thereof to be graded or the sidewalk flagged or curbed or the street paved, or any one or more of such acts performed wholly at the expense of the village, or of the owners of the adjoining land, or partly at the expense of each; but such street shall not be so graded or flagged or curbed or paved wholly at the expense of the owner of the adjoining land, unless a petition be presented to the president and trustees, signed by the owners of at least two-thirds of

* So in original.

the frontage on the street, or portion thereof, proposed to be so improved, and a hearing given thereon, to all persons interested, on a notice of at least ten days. If such improvement is so required to be constructed or repaired wholly at the expense of the owners of the adjoining lands, a notice specifying the place and manner, and the time not less than thirty days, within which the said improvement is required to be constructed or repaired, shall be served upon the owners. If an owner shall not construct or repair the street as required by the notice, the president and trustees may cause the same to be so constructed or repaired, and assess the expense thereof upon the adjoining land. If a street is to be so improved, constructed or repaired, at the joint expense of the village, and the owner of the adjoining land, the president and trustees may cause the same to be constructed or repaired, and assess upon the adjoining land the proportion of the expense chargeable against the same; or it may direct the owner to contribute labor or materials therefor. The total amount expended for street paving in any fiscal year from the moneys raised during such year, for street purposes, otherwise than in pursuance of a village election, shall not be more than one-half thereof. No landowner shall be required to grade, flag, curb or pave or bear the expense of so doing any portion of the street not in front of such land, nor beyond the center of the street. All grading done or flagging laid or curb set or pavements laid by the owners of adjoining land shall be paid under the supervision and in accordance with the directions of the president and trustees. The expense of constructing a pavement or of grading done or flagging laid or curb set or any part thereof, may be raised in an entire amount or in smaller amounts from time to time, as the president and trustees may determine. If any portion of such expense is to be borne by the village, bonds or certificates of indebtedness may be issued. If such expense or any part thereof is to be assessed upon adjoining land, the president and trustees may apportion it upon the lands and assess the same as a whole or by installments. Notice of an assessment based upon such apportionment shall be given to the landowners, who may pay the amounts assessed within ten days after such notice. At the expiration of that time bonds or certificates of indebtedness may be issued for the aggregate amount of such assessment then remaining unpaid. Taxes for the amount of such bonds or certificates issued on account of default in the payment of the amount apportioned upon the adjoining

land, shall be levied and collected in the manner prescribed by law in case of unpaid assessments for the construction of sewers.

§ 2. Sections thirty-two, thirty-three and thirty-four of such chapter are hereby amended to read, respectively, as follows:

§ 32. The president and trustees shall have power to make and establish by-laws, rules and ordinances necessary and proper to carry out the purposes and objects of this act and not inconsistent with this act, and such other and further ordinances not inconsistent with the laws of the state as shall be deemed expedient for the government of the village and the management of its business, for the preservation of good order, peace and health, for the safety and welfare of its inhabitants, for the protection and security of their property and the benefit of trade, and to do such acts and to make all such ordinances as shall be necessary to carry into effect any general power, or discharge any duty conferred or imposed by this act, although such acts or ordinances may not be specially enumerated herein; to have printed the same, and enforce such by-laws, rules and ordinances as hereinafter prescribed, but all such by-laws, rules and ordinances shall be printed in the village paper or posted at least ten days in not less than three public places in said village before they shall take effect. The village clerk shall make and sign an entry or record in a book to be provided for the purpose, of every by-law, rule or ordinance enacted by said board of trustees, and a memorandum of the time of the first publication or posting of the same, and the book containing such ordinances, rules or by-laws shall be presumptive evidence in all courts and places of the due passage, publication or posting of all such ordinances, rules or by-laws recorded therein, and of their validity. And the said board of trustees may have this act and amendments thereto and other acts relating to said village, together with the ordinances, by-laws and rules adopted by said board printed, and a printed copy thereof duly certified by the clerk of said village shall also be presumptive evidence in all courts and places of the binding force and validity of such acts, amendments, laws, ordinances, by-laws and rules contained therein. Any person violating an ordinance made and established by the president and trustees of the village of Horseheads shall be guilty of a misdemeanor and the president and trustees aforesaid may provide by a general ordinance, or in any ordinance, that any person guilty of such violation shall be liable to fine which shall not exceed one hundred dollars in

amount, or to imprisonment not exceeding one hundred days, or to pay the village a penalty not exceeding one hundred dollars, to be recovered in a civil action, or to both fine and imprisonment. The village may maintain an action in a court of competent jurisdiction to restrain by injunction the violation of any ordinance of the president and trustees, notwithstanding that an ordinance may provide a penalty for its violation.

§ 33. The trustees shall have power to compel the owners or occupants of land or lots in front of or adjoining which a sidewalk is required by them to be made or repaired within any of the streets, avenues or public places of said village to make such sidewalks or improvements as said board of trustees shall deem necessary in front of or adjoining said land or lots, to determine and prescribe the manner of doing the same, and the material to be used, the quality and kind of such materials, the width and grade they shall be constructed, and the time in which the same shall be completed, and in case the owner, owners or occupants of any such land or lots shall neglect or refuse to make and complete the said walks or improvement within such reasonable time as shall be required by said board, said board of trustees may cause such walks or improvements to be made or completed in the manner directed, and the expense thereof may be assessed by said board on such owner, owners or occupants so neglecting or refusing, and be collected by warrant issued by the president and trustees in the same manner as taxes are by virtue of this act, and in case such tax or assessment shall not be paid or collected the trustees may cause such real estate or such portion thereof as may be necessary to be leased under the provisions of this act, or said trustees may cause the owner, owners, occupant or occupants to be prosecuted by an action at law for the amount of such expenses, tax or assessment and recovery may be had with costs of action, with fifteen per centum added to amount of recovery, provided, however, that if a tenant or lessee of such lands or lots shall be required to pay such expense he shall be authorized to collect the same of the owner or owners or may deduct the amount of such expense, tax or assessment so paid from rents due or to become due, the owner or owners of such lands or lots and the amount so required to be paid shall be a legal offset by said tenant or lessee to any claim for rent of said premises. But nothing in this section shall be so construed as to prevent the trustees from making expenditures of money toward the construction, alteration or repair

of sidewalks in said village whenever or wherever they may deem the same more for the benefit of all the inhabitants of the village than for such adjoining owner, owners or occupants, provided such expenditure for such sidewalks shall not exceed five hundred dollars in any one year.

§ 34. It shall be the duty of the board of trustees to annually appoint a board of health to consist of three electors of said village; and for the purpose of defraying the expenses incurred by said board, the board of trustees are authorized to appropriate a sum not to exceed one thousand dollars in addition to the amount specified in section forty-three of this act.

§ 3. This act shall take effect immediately.

Chap. 367.

AN ACT to amend chapter two hundred and sixty-six of the laws of eighteen hundred and ninety-three, entitled "An act to amend, revise and consolidate the acts relating to the village of Horseheads, in Chemung county, and to enlarge the powers of the corporation of said village," relative to eligibility to village office of acting police justice.

Became a law, May 19, 1908, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section eight of chapter two hundred and sixty-six of the laws of eighteen hundred and ninety-three, entitled "An act to amend, revise and consolidate the acts relating to the village of Horseheads, in Chemung county, and to enlarge the powers of the corporation of said village," is hereby amended to read as follows:

§ 8. No person shall be eligible to any office in this village, excepting that of acting police justice as provided in section forty of title seven of this act, unless he shall at the time of his election or appointment, be an elector and resident of said village.

§ 2. This act shall take effect immediately.

Chap. 368.

AN ACT to amend chapter seven hundred and fifty-five of the laws of nineteen hundred and seven, entitled "An act constituting the charter of the city of Rochester."

Became a law, May 19, 1908, with the approval of the Governor. Passed, three-fifths being present.

Accepted by the City.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision fourteen of section three of chapter seven hundred and fifty-five of the laws of nineteen hundred and seven, entitled "An act constituting the charter of the city of Rochester," is hereby amended to read as follows:

14. **Fourteenth ward.**—All that part of the said city included within a line beginning at a point in the center of the Genesee river where the center of Averill avenue extended westerly would intersect the said center of the Genesee river; thence easterly along said extended center and along the said center of Averill avenue to the intersection with the center of South avenue; thence southerly along said center of South avenue to the intersection with the center of Caroline street; thence easterly along said center of Caroline street to the intersection with the center of South Goodman street; thence northerly along said center of South Goodman street to the intersection with the center of the Erie canal; thence easterly along said center of the Erie canal to the intersection with the east line of the Culver road; thence southerly along said east line of the Culver road and said east line produced southerly to the north line of lot number thirty-seven of the town of Brighton; thence westerly along the north line of lots numbers thirty-seven and forty-five to a point two hundred feet easterly measured at right angles from the easterly line of Field street, so called; thence southerly along a line parallel to and two hundred feet easterly measured at right angles from the said easterly line of said Field street and along said line produced to a point two hundred feet southwesterly measured at right angles from the southwesterly line of Pinnacle avenue, so called; thence northwesterly along a line parallel to and two hundred feet southwesterly measured at right angles from the southwesterly line of said Pinnacle avenue to a

point in the north line of lot number fifty-three of the town of Brighton; thence westerly along the said north line of said lot number fifty-three of the said town of Brighton, to a point in the north line of said lot number fifty-three, two hundred and ninety feet easterly from the northeast corner of lot number sixty-one in said town of Brighton; thence southerly on a line parallel with the east line of said lot number sixty-one to the northerly line of a highway known as Elmwood avenue; thence westerly along the northerly line of said Elmwood avenue about three hundred feet to the division line between said town lots numbers fifty-three and sixty-one; thence southerly along said division line between town lots fifty-three and sixty-one and along the division line between town lots numbers fifty-four and sixty-two of said town of Brighton, through land owned by the county of Monroe and along the easterly line of land formerly owned by Reuben N. Booth and now owned by the state of New York, about three thousand one hundred and twenty feet to land now or formerly owned by Hiram Smith; thence westerly along the division line between the lands owned by the said state of New York, formerly owned by said Booth, and lands of said Smith, and along said line prolonged westerly, about two thousand three hundred feet to the westerly line of the highway known as South avenue; thence northerly along said westerly line of South avenue about six hundred and ninety feet to an angle in said highway; thence continuing northerly along said westerly line of South avenue about two thousand two hundred and forty-five feet to a point two hundred feet southerly, measured at right angles, from the southerly line of the highway known as Elmwood avenue; thence westerly on a line parallel to and two hundred feet southerly measured at right angles, from the southerly line of said Elmwood avenue, to a point in the westerly line of Mount Hope avenue, sometimes called West Henrietta road; thence northerly along the said westerly line of said Mount Hope avenue to a point in the southerly line of a highway known as Elmwood avenue; thence westerly along said southerly line of said Elmwood avenue to the intersection with the westerly line of the lands owned by the New York, Lake Erie and Western Railroad Company; thence southerly along the said westerly line of said lands owned by said railroad company to a point in the southerly line of the Westfall road, so called; thence westerly along the said southerly line of the said Westfall road to a point in the

easterly line of the lands conveyed by Dora M. Baker to Frances A. Baker, by quitclaim deed recorded in liber six hundred and ninety-eight of deeds at page three hundred and thirty-one, Monroe county clerk's office; thence southerly along the said easterly line of said lands of Frances A. Baker to an angle to the left; thence easterly along the northerly line of said lands of Frances A. Baker to an angle to the right; thence southerly along the easterly line of said lands of Frances A. Baker to a point in the northerly line of the Crittenden road, so called; thence westerly along said northerly line of said Crittenden road to a point in the westerly line of the said lands of Frances A. Baker; thence northerly along the said westerly line of said lands of Frances A. Baker to an angle to the left; thence northwesterly along the southerly line of the said lands of Frances A. Baker and said line extended, to a point in the westerly shore of the Genesee river; thence northeasterly along the said westerly shore of the Genesee river, to a point where the northerly line of a road lying between the lands of E. Chapin and Mathias Kondolf, on the west side of the Genesee river, extended easterly would intersect the center of the said Genesee river; thence easterly along said extended northerly line of said road to the intersection with the center of the Genesee river; thence northerly along said center of the Genesee river to the place of beginning, constitutes the fourteenth ward.

§ 2. Section one hundred and twelve of said act is hereby amended to read as follows:

§ 112. **Apportionment of expense of public improvements.**— The common council may direct that the whole of the expense of a public improvement or work be assessed upon the property deemed benefited or, subject to the approval of the board of estimate and apportionment, that the whole or part thereof be charged to the city at large and the remainder, if any, assessed upon the property deemed benefited. The common council may direct that the portion of expense, heretofore or hereafter incurred, of a public improvement for which by law or agreement a street railway corporation is liable or chargeable, shall be assessed on the special franchises of such street railway corporation situate within the city.

§ 3. Section one hundred and eighty-eight of said act is hereby amended by adding thereto at the end thereof a new subdivision to be numbered two,* and to read as follows:

* So in original.

1. When a lot, farm or parcel of land is situate partly within the city and partly without the city, the portion thereof within the city is taxable in the city, and the remainder thereof is taxable in the tax district in which it is situate or otherwise taxable by law.

§ 4. Section three hundred and five of said act is hereby amended to read as follows:

§ 305. **Railroads and telephone lines through parks.**— No railroad may be laid in, upon, over or through the public parks or squares of the city except with the consent of the park commission, and upon such terms and conditions as it may prescribe; such consent, terms and conditions to be approved by the mayor before becoming effective. No telegraph or telephone line and no poles therefor may be erected or constructed in, over, under or through the public parks and squares except with the consent of the park commission and upon such terms and conditions as it may prescribe.

§ 5. Subdivision (a) of subdivision two of section three hundred and thirty-five of said act is hereby amended to read as follows:

(a) The commissioner of public safety has power in his discretion, upon the certificate of the police surgeon, to retire and dismiss from membership any member of the police force who after fifteen years' service therein becomes superannuated by age, permanently insane or mentally incapacitated or disabled, physically or mentally, so as to be unfitted or unable to perform full police duty by reason of such disability or disease contracted without misconduct on his part, and to thereupon grant him a pension of an annual sum not less than two hundred and fifty dollars and not exceeding five hundred dollars.

§ 6. Subdivision two of section three hundred and thirty-six of said act is hereby amended to read as follows:

2. **Pensions.**— (a) The commissioner of public safety has power in his discretion, upon the certificate of a surgeon designated by him, to retire and dismiss from membership any member of the paid fire force who after fifteen years' membership therein becomes superannuated by age, permanently insane or mentally incapacitated or disabled, physically or mentally, so as to be unfitted or unable to perform full fire duty by reason of such disability or disease contracted without misconduct

on his part, and to thereupon grant him a pension of an annual sum not less than two hundred and fifty dollars and not exceeding five hundred dollars.

(b) The commissioner of public safety has power in his discretion to retire and dismiss from membership any member of the paid fire force who has performed duty therein for a period of twenty years or upwards, either as a paid or minute man, upon the application in writing of such member; and also any member of the paid fire force who while in and by reason of the actual performance of duty, and without fault or misconduct on his part, is injured and becomes permanently disabled, physically or mentally, so as to be unfitted to perform full fire duty, upon the certificate of a surgeon designated by the commissioner of public safety showing that such member is permanently disabled, physically or mentally, so as to be unfit for duty; and to thereupon grant a pension to the retired member in either of the above cases, of an annual sum not less than one-half his salary or compensation at the time of retirement; which pension is for the natural life of the member so retired, and must not be revoked, repealed or diminished.

§ 7. Section four hundred and seventy-two of said act is hereby amended to read as follows:

§ 472. **Prosecutions for violation of ordinances.**—A violation of an ordinance of the common council is not a crime, but the prosecution therefor is a criminal proceeding instituted in the name of the city of Rochester. A summons against a corporation for a violation of an ordinance of the common council may be issued by the police justice and made returnable before the police court. Prosecutions, summons and arrests for violations of ordinances may be made as is now or may hereafter be provided by law for misdemeanor, and all proceedings in such prosecutions shall be had as is now or may hereafter be provided by law for prosecutions for misdemeanor, except as otherwise herein provided and upon conviction the same process must be issued and executed as upon convictions for misdemeanor, and appeals therefrom may be taken in the same manner and with the same effect as appeals from conviction for misdemeanor. No costs may be allowed to or against the city in any such proceeding or appeal therefrom. The provisions of the code of criminal procedure relating to prosecutions, summons, arrests, bail, confinement, trial, conviction and commitments for misdemeanor, and appeals from convictions

therefor, and all other provisions thereof relating to misdemeanors so far as not in conflict with the provisions of this charter, apply to prosecutions and arrests for violations of ordinances of the common council and to all proceedings thereon.

§ 8. Subdivisions five and nine of section four hundred and ninety-seven of said act are hereby amended to read respectively as follows:

5. An action to recover damages for a personal injury or an injury to real or personal property or for the conversion of personal property, where the sum claimed does not exceed two thousand dollars, exclusive of costs.

9. An action to recover damages for fraud in the sale, purchase or exchange of real or personal property, or for false or fraudulent representations, fraud or deceit, where the sum claimed does not exceed two thousand dollars, exclusive of costs.

§ 9. Section five hundred and twelve of said act is hereby amended to read as follows:

§ 512. **Commission.**— The court may award and issue a commission to take the testimony of a material witness not within the county of Monroe, as and in the manner provided in article three of title four of chapter nineteen of the code of civil procedure; and the provisions thereof, except as modified by this act, apply to the issuance, execution, return and effect thereof.

§ 10. Subdivision (a) of subdivision one of section five hundred and eighteen of said act is hereby amended to read as follows:

(a) When the damages recovered amount to five dollars and do not amount to twenty-five dollars, the sum of two dollars.

§ 11. Section six hundred and thirty-one of said act is hereby amended to read as follows:

§ 631. **Territory annexed.**— The territory which by this amendatory act is annexed to the city of Rochester remains in the respective assembly districts of Monroe county in which it is now contained, until the same are changed according to law; and the common council must make provision for the voting of the electors of such territory.

§ 12. This act shall take effect immediately.

Chap. 369.

AN ACT to amend chapter four hundred and seventy-eight of the laws of eighteen hundred and ninety-three, entitled "An act to incorporate the city of Olean," generally.

Became a law, May 19, 1908, with the approval of the Governor. Passed, three-fifths being present.

Accepted by the City.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Title one of chapter four hundred and seventy-eight of the laws of eighteen hundred and ninety-three, entitled "An act to incorporate the city of Olean," is hereby amended to read as follows:

Section 1. The citizens of this state who may, from time to time, reside within the territorial limits of the city of Olean, as specified in this act, are hereby created a municipal corporation in perpetuity to be known as city of Olean. It may take and hold in trust real or personal property for any public purpose, upon such terms as may be prescribed by the grantor or donor, and may provide for the execution of such trusts. It may sue and be sued, prosecute and defend in any court of law or equity.

§ 2. The territorial limits of the city of Olean shall be as follows: All that part of the town of Olean in the county of Cattaraugus bounded as follows: Commencing at the intersection of the west line of town number one in the fourth range of townships of the Holland Land Company's survey with the south bank of the Allegany river at low water mark; thence easterly following the south bank of said river to the point where said south bank of said river intersects the west line of lot fifteen, section seven, town one, range four, of the Holland Land Company's survey; thence south on the west line of lot fifteen in section seven, town one, range four aforesaid to the southwest corner of said lot fifteen; thence east along the south line of said lot fifteen and the south lines of lots thirteen and fourteen in the same section, town, and range, to the southeast corner of said lot thirteen; thence north on the east line of said lot thirteen to the south bank of said river;

thence east along the south bank of said river to the point where the east line of lot four in section four, town one, range four aforesaid intersects said south bank of said river; thence north along the east line of lots four and ten in said section four to the northeast corner of said lot ten; thence west on the north line of said town one, range four, aforesaid to the southeast corner of lot one, section five, town two, range four of the Holland Land Company's survey; thence north on the east line of said section five to the center of the Windfall road; thence west along the center of the Windfall road and the north line of lot one, in section five, town two, range four of said Holland Land Company's survey to the east bank of Olean creek; thence northerly along the east bank of said Olean creek, to the point where said east bank of said creek intersects the north line of lot eight in said section five, town two, range four; thence west on the north line of said lot one and of lot three in said section nine to the northwest corner of said lot three; thence south along the west line of said lot three in section nine, town two, range four and the west line of lot fourteen in section eleven, town one, range four to the south line of the lands of the Western New York and Pennsylvania Railway Company on lots twelve, thirteen, and fourteen in said section eleven; thence westerly along the south line of said railway company's land to the west line of town one, range four, aforesaid; thence south along the west line of said town to the place of beginning.

§ 3. The village of North Olean incorporated under the village law on the tenth day of July, eighteen hundred and ninety-four, is hereby dissolved, and all the property, real and personal, and all the rights, powers, privileges, and contracts belonging to or vested in the city of Olean as incorporated by chapter four hundred and seventy-eight of the laws of eighteen hundred and ninety-three, and the acts amendatory thereof, and said village of North Olean and all the duties, contracts, obligations, and liabilities of said city of Olean and said village of North Olean shall belong to and are hereby transferred to, vested in, and imposed upon the city of Olean. The common council of the city of Olean shall carry out and complete the construction of any pavements or sewers commenced or contracted for by the board of trustees of the village of North Olean, and shall succeed to all the rights, powers, and privileges, and the city of Olean shall be

subject to all the duties and liabilities of said board of trustees and said village under the provisions of any contract or contracts made and entered into by said board of trustees for the construction of any such pavement or sewer.

§ 4. All of the volunteer fire companies of the village of North Olean, and all of the town fire companies of the town of Olean having their fire house and apparatus located within the boundaries of the city of Olean as established by this act, shall become and be a part of the fire department of the city of Olean, to be organized by the common council as provided in this act. The offices of all officers of the fire department of the village of North Olean, except the officers of the fire companies therein, are hereby abolished.

§ 5. All that part of the town of Olean not included within the boundaries of the city of Olean as established by this act shall continue to be and shall constitute the town of Olean.

§ 5-a. The board of supervisors of Cattaraugus county shall at its first annual session after this act takes effect apportion and divide the state and county charges chargeable to the town of Olean, and all the indebtedness of said town existing at the time this act takes effect, including said town's proportion of all highway improvements then contracted to be made between the city of Olean and the town of Olean as constituted by this act, and cause such charges as so apportioned to be levied upon and collected from the town and city of Olean respectively as constituted by this act. The indebtedness of said town of Olean as heretofore constituted, as so apportioned by said board of supervisors, shall be the indebtedness of said town of Olean and of said city of Olean as constituted by this act, and is hereby imposed upon said city and town respectively as so apportioned. Said apportionment except as to highway improvements shall be based upon the relative assessed valuation of the property of the town of Olean, as constituted by this act, and of that part of the former town of Olean by this act included in said city of Olean. Said board of supervisors shall at the same time apportion between said city of Olean and said town of Olean, as constituted by this act, all the personal property heretofore belonging to said town of Olean, upon the same basis as the apportionment of the indebtedness of said town. That part of said personal property apportioned and allowed to the city of Olean shall be paid over

or delivered by the officers of the former town of Olean as the common council of said city shall direct. All of the real property belonging to the town of Olean as heretofore constituted shall belong to and become the property of the town of Olean or of the city of Olean according as the same is situated in said town or city, as constituted by this act, and the board of supervisors of Cattaraugus county shall appraise the real estate now owned by the town, and which it is proposed to take into the city by the provisions of this act, and shall apportion the amount the city shall pay the town for the same. The town charges against the town of Olean incurred prior to the time this act takes effect, and those incurred subsequent thereto, shall be separately audited by the board of town auditors of the town of Olean, and separately certified to the board of supervisors of said county of Cattaraugus at its first annual session after this act takes effect, and that part of such charges incurred prior to the time this act takes effect shall be apportioned between the city and town of Olean as in this section provided for state and county charges. All moneys in the custody of any officer of the village of North Olean shall be paid over to the treasurer of the city of Olean within ten days after this act takes effect, and the city of Olean shall possess and have the same right, upon the expiration of said ten days, to prosecute and enforce any bond given by any such officer for the payment of any such moneys to the same effect as the village of North Olean or the board of trustees thereof might or could have done upon default in the condition of any such bond, had this act not become a law. All property of the village of North Olean other than money shall be turned over and delivered to such officers of the city of Olean as the common council may direct. All the records and papers on file in the office of the village clerk of the village of North Olean shall be deposited by the clerk of said village in the office of the clerk of the city of Olean within ten days after this act takes effect. The collector of the village of North Olean shall, within ten days after this act takes effect, make and file a return with the clerk of the city of Olean in the manner and form provided by section one hundred and sixteen of the village law, of all taxes collected and uncollected upon any tax roll then in his hands, and all taxes then unpaid upon such roll shall be collected by and paid to the clerk of said city in the same manner as city taxes, as provided by this act. In case any notice required to be posted or published by the collector of said village

has not been posted or published, or the publication thereof is not complete, as required by the village law, the same shall be posted and published or the publication thereof completed by said city clerk in the same manner as if said collector had continued in the collection of said taxes. All taxes levied or assessed by the board of trustees of the village of North Olean, prior to the time when this act takes effect, shall be a lien upon real property against which the same is assessed, and the payment thereof may be enforced by the common council of the city of Olean in the manner provided by the village law, and for that purpose the common council shall succeed to all the rights, powers, and privileges of said board of trustees.

§ 5-b. Said city shall be divided into eight wards as follows: The first ward shall comprise all that part of said city bounded east by the center of Union street; north by the center of State street; west by the center of Seventh street; and south by the Allegany river. The second ward shall comprise all that part of said city included within the territory bounded on the east by the west bank of the main channel of the Olean creek; north by the center of State street; west by the center of Union street; and south by the Allegany river; and also all that part of said city lying south of the Allegany river. The third ward shall comprise all that part of said city bounded east by the west bank of the west channel of the Olean creek; north by the south bank of the Olean creek; and west by the center of Union street and a line drawn in continuation of the center line of Union street to intersect the south bank of the Olean creek; south by the center of State street. The fourth ward shall comprise all that part of said city bounded east by the center of Union street; north by the north line of town one, range four; west by the center of Seventh street; and south by the center of State street. The fifth ward shall comprise all that part of said city bounded east by the center of Seventh street; north by the center of Washington street, and a line drawn in continuation of the center of Washington street to intersect the west bounds of said city; west by the west bounds of said city and south by the north bank of the Allegany river. The sixth ward shall comprise all that part of said city bounded east by the center of Seventh street; north by the north bounds of town one, range four, of the Holland Land Company's survey and the south line of the lands of the Western New York and Pennsylvania Railway Company; and west by the west bounds of said city; and south by the

center of Washington street and a line drawn in continuation of the center of Washington street to intersect the west bounds of said city. The seventh ward shall comprise all that part of said city bounded south by the north line of town one, range four, of the Holland Land Company's survey; east by the west bank of Olean creek; north by the north bounds of said city; west by the west bounds of said city. The eighth ward shall comprise all that part of said city bounded west by the west bank of the west channel of the Olean creek; north by the north bounds of said city; and south by the north bank of the Allegany river, and east by the east bounds of said city.

§ 2. Section six of such chapter, as amended by chapter ten of the laws of nineteen hundred and one and chapter two hundred and twenty-six of the laws of nineteen hundred and five, is hereby amended to read as follows:

§ 6. The elective officers of the city of Olean shall be a mayor, police justice, four justices of the peace, three assessors and four constables, all of whom shall be elected by the city at large, four supervisors, one of whom shall be elected from the first and fifth wards hereinbefore described; one of whom shall be elected from the second and third wards hereinbefore described; one of whom shall be elected from the fourth and sixth wards hereinbefore described; and another of whom shall be elected from the seventh and eighth wards hereinbefore described. Two aldermen shall be elected from each ward. The appointive officers shall be a clerk, deputy clerk, a superintendent of streets, an attorney, a treasurer, an overseer of the poor, a board of health, a chief of the fire department, an assistant chief of the fire department, a sealer of weights and measures, one chief of police, and such number of policemen and special policemen as the common council may deem necessary, such number of firemen as the common council may deem necessary, and such other appointive officers as are or may be specified by the general statutes of this state. The appointive officers shall be appointed in the manner herein provided.

§ 3. Sections twenty-six and twenty-eight of such chapter are hereby amended to read, respectively, as follows:

§ 26. The mayor shall be the chief executive officer of the city. He shall see that the laws of this state, and the ordinances and by-laws passed by the common council, are faithfully executed in said city and cause the arrest of all persons

violating the same. He shall exercise supervision over the conduct of all subordinate municipal officers, and shall nominate, and, with the consent of the common council, appoint all appointive officers, unless herein otherwise specifically provided. No person shall, however, be again nominated by the mayor for the same office after being rejected by the common council, during the same municipal year in which the common council refused to confirm such nomination unless the common council shall request such nomination to be made. It shall be his duty to communicate to the common council, at its annual meeting in January in each year, a general statement of the affairs of said city in relation to its finances, government and improvements, with such recommendations as he may deem proper, and to recommend to the common council from time to time such measures as he may deem necessary or expedient for it to take in order to expedite or carry into effect any order, resolution, ordinance or act which it shall have passed. Every such order, ordinance, resolution and act of which the mayor approves shall have his approval in writing on a transcript thereof signed by him officially. The transcript of every such order, resolution, ordinance and act of which he disapproves shall be returned by him to the common council or clerk, with his objections in writing thereon or thereto attached, which shall be filed with the clerk; and the common council shall, at its next regular meeting after such return, proceed to reconsider such order, resolution, ordinance or act; and if the same be passed by a concurring vote of two-thirds of all the members of the common council then in office, it shall have full force and effect, but if not so passed by such concurring vote of two-thirds of the members of the common council then in office, such order, resolution, ordinance or act so disapproved by the mayor shall have no force or effect. If any order, resolution, ordinance or act, a transcript of which shall be presented to the mayor, shall relate to special and distinct matters, or to one or more items of appropriation or payment of money, the mayor may approve such order, resolution, ordinance or act, and sign the transcript thereof as to one or more of said matters or items specified, and disapprove it as to the others. In such case he shall attach to the transcript a statement of the items of which he does not approve, with his objections thereto, and such matters and items shall not take effect unless reconsidered and passed by the common council in the same manner as in the case of the mayor

refusing to approve of an entire order, resolution, ordinance or act. If such transcript shall not be returned by the mayor to the common council or clerk within ten days after it shall have been passed by the common council, Sunday excepted, such order, resolution, ordinance or act shall be of like effect and force as if duly approved by him, unless within such time his term of office shall have expired, in which case the same shall have no force. The mayor, when present, shall preside at the meetings of the common council, and he shall have a casting vote therein in case of tie on every question submitted to the common council, except when by the provisions of this act a concurring vote of a majority of all the members of the common council then in office is necessary. The mayor shall have the power summarily to revoke for violation thereof, any license granted by the common council, until its next regular meeting, when the common council shall investigate the matter, and dispose of the same as it may see fit. He shall have the power to hear and entertain any complaint against any appointed officer for misconduct or neglect of duty, and to suspend him until the next regular meeting of the common council when such complaint shall be investigated by it, and the officer reinstated or suspended for such additional time as it may deem just and proper, or removed as in this act provided. He shall sign all appointments to office made by the common council, and all warrants ordered by it for the payment of moneys by the city treasurer, and all permits and licenses granted by the common council; and when authorized so to do by the common council, he shall execute in behalf of the city all deeds, contracts, and other papers to be executed as the act of the city. He is also empowered to enter any house or building, in which he suspects gambling or other illegal practices to be carried on, or to be occupied by persons of ill-fame or persons of dissolute character. He shall arrest or cause to be arrested, or hold, all such persons found therein until they can be dealt with before some proper magistrate, according to law. He shall have the power within said city to administer oaths and take affidavits; and on filing with the clerk of Cattaraugus county a certificate, under the seal of the city, signed by the clerk, of his election, and on filing his oath of office, to take proof and acknowledgment of deeds, and other instruments therein. The mayor shall possess all powers and authority conferred upon mayors of cities by any general statute of this state. He shall

have the power to arrest without process any person who shall, within his view in said city, be guilty of a crime or commit an offense triable summarily before a magistrate, or who shall in his view violate any by-law or ordinance of said city. He may also, upon complaint being made to him under oath, issue a warrant directed to the chief of police or any police officer of the city of Olean, or other peace officer, requiring such officer forthwith to arrest the person charged in such complaint of any such offense or violation, whether committed within the mayor's view or otherwise, and to take such person for examination or trial before the police justice of said city, or other competent court or magistrate. When any such person shall be arrested for any such offense or violation, if such process be made returnable before the police justice, or other competent court or magistrate, such police justice, court or magistrate shall, upon the same being returned to him, or the person arrested by virtue thereof being brought before him, take and acquire jurisdiction of the subject-matter thereof, and of the person of the defendant, and proceed with the case in the same manner, and to the same extent in all respects as if such process had been originally issued by said police justice, court or magistrate. Any warrant issued as aforesaid by the mayor may be executed by the officer to whom it is directed, at any place within this state. The mayor shall receive no compensation for his services.

§ 28. The supervisors shall have the same powers and discharge the same duties as supervisors of towns, except as otherwise provided in this act, and shall be members of the board of supervisors of Cattaraugus county. They shall receive the compensation allowed by law to supervisors of towns. The first and fifth wards of said city shall be regarded as a town of Cattaraugus county for the purpose specified in title three, chapter ten, article two of the code of civil procedure, the mode of selecting, drawing and procuring the attendance of trial jurors. The second and third wards of said city shall be regarded as a town of said county for the same purposes; and the fourth and sixth wards of said city shall be regarded as a town of said county for the same purposes. The seventh and eighth wards of said city shall be regarded as a town of said county for the same purposes. The assessors and clerk of said city, and the supervisor elected from the first and fifth wards of said city, shall perform in said wards the duties of supervisor, town clerk and assessors of a town as prescribed by

said article. The assessors and clerk of said city, and the supervisor elected from the second and third wards, of said city shall perform the like duties in said last mentioned wards; and the assessors and clerk of said city and the supervisor elected from the fourth and sixth wards in said city shall perform in said wards last mentioned, the like duties. The assessors and clerk of said city and the supervisor elected from the seventh and eighth wards in said city shall perform in said last mentioned wards the like duties. A duplicate of each list of jurors selected by them, shall be filed in the office of the clerk of said city.

§ 4. Section seventy-three-b of such chapter, as added by chapter three hundred and twenty-seven of the laws of nineteen hundred and four, is hereby amended to read as follows:

§ 73-b. Such commissioners shall have full and exclusive power to make rules and by-laws for the orderly transaction of their business and amend and repeal the same from time to time as may be deemed necessary; to govern, manage and direct, and to lay out, ornament, regulate, grade and improve and to care for and maintain the parks, squares and public gardens and places in said city and the approaches thereto; to appoint and employ and fix the compensation of such employees as shall be required and employ such surveyors, engineers and landscape architects as they shall deem necessary and proper for the improvement, maintenance and adornment of such parks, squares and public gardens and places; and generally shall have the supervision, care and control of the parks, squares and public gardens and places in said city. But the said commissioners shall not have the power to create any indebtedness or incur any expense in the improvement, adornment or maintenance of said parks, squares and public gardens and places in excess of the amount annually raised and appropriated for that purpose, as provided in this act, and such revenue as may be derived for that purpose from gifts or legacies or the income therefrom. For the purposes of this section and of section seventy-three-d of this act the lands lying within the bounds of any of the streets of said city which adjoin any of such parks, squares or public gardens or places shall, to the curb line of such streets, be deemed a part of such parks, squares and public gardens and places, except that the common council shall have the power to establish the lines and grades of sidewalks and cause sidewalks to be constructed thereon.

§ 5. Sections seventy-four, seventy-seven, seventy-eight, sub-

division nineteen of section eighty-two, and section ninety-two of such chapter, are hereby amended to read, respectively, as follows:

§ 74. The aldermen shall constitute the common council of the city. At its annual meeting, or as soon thereafter as practicable, the mayor and common council shall elect one of the aldermen as president of the common council, who shall preside at its meetings in the absence of the mayor therefrom, and shall appoint all standing committees. In case the mayor shall be unable to perform the duties of his office in consequence of continued sickness or absence from the city, the president of the common council shall be vested with all the powers and perform all the duties of the mayor of the city until the mayor shall resume his office or the vacancy shall be supplied according to law; but such inability on the part of the mayor shall have continued at least twenty-four hours before the president of the common council shall act as mayor or perform any of his duties; but the mayor may file with the clerk a certificate that he will be unable to perform the duties of his office by reason of such inability and thereupon the president of the common council may act at once as mayor, and perform the duties of such office until the mayor shall resume his office, and such certificate shall be conclusive evidence of such inability upon the part of the mayor.

§ 77. No tax or assessment shall be made or outlet sewer bond issued except by the concurring vote of the majority of all the members of the common council in office. No tax, levy, assessment, order, resolution or ordinance shall take effect until after the same shall have been approved in writing by the mayor, except as herein otherwise provided. No appointment to office shall be deemed to be made with the consent of the common council except by a concurring vote of a majority of all the aldermen in office, providing, however, in case of a tie, the appointment shall be deemed confirmed by the concurring vote of one-half of the members of the common council in office and the casting vote of the mayor.

§ 78. The common council shall hold its annual meeting the second day of January, or in case the same shall be Sunday or a legal holiday, the next succeeding day, and its regular meetings at least once in every period of two weeks. The mayor or the president of the common council or any three aldermen may call a meeting by appointment thereof in writing, notice thereof to be given by the clerk as the common council may prescribe. The

common council shall determine the rules of its proceedings and such rules shall not be subject to the approval of the mayor, but shall be valid without his approval; have power to compel the attendance of absent members; and prescribe the powers and duties of all officers appointed subject to the provisions of this act.

§ 82. Subd. 19. To provide for the inspection of steam engines and boilers used in the city, to prohibit the use of such thereof as are unsafe and to regulate the use of gas engines.

§ 92. The common council shall not construct any drain or sewer except upon petition of a majority of the owners of property, to be assessed therefor, unless for an outlet to a drain or sewer constructed upon the aforesaid petition, and then the shortest practicable route shall be adopted, except as in this act otherwise provided. All drains and sewers constructed for an outlet to a sewer constructed upon petition shall be paid for by the city by general tax, and shall not be chargeable to abutting property owners, but no connection shall be made to such sewer without the consent of the common council, and no persons shall be permitted to connect thereto without the payment of a reasonable charge therefor, to be determined by the common council, and only upon complying with such rules and regulations as the common council may prescribe. Provided, however, that the common council may adopt a general plan of outlet sewers for any part of said city which was not a part of the city of Olean prior to the passage of this act, and which is not already provided with outlet sewers, and may cause the same and any additional sewer required on account of the deficiency of any outlet sewer already constructed in said city to be constructed, and the cost and expense of the construction of the same shall be paid by general tax. To provide for the payment of the cost and expense of constructing any such sewer required for that part of said city which was not a part of the city of Olean before the passage of this act, or required on account of any deficiency in any sewer in said city, the common council shall have power to issue the bonds of said city, which shall be signed by the mayor and countersigned by the clerk of said city, which shall be payable not more than twenty years from the date of issue, and shall bear interest at not to exceed six per centum per annum. Said bonds shall not be issued or sold until after a contract or contracts for the construction of such sewer or sewers shall have been made and entered into by the common council, and shall not be issued to an amount in excess of the aggregate amount of the cost of con-

structing such sewers, as set forth in such contracts. Said bonds shall be sold for not less than par, to the highest bidder upon sealed proposals, after publishing a notice of the time and place of sale and the amount and description of the bonds to be sold in the official paper once a week for at least two successive weeks before the sale, and in such other newspapers as the common council may prescribe. Provided, however, that no contract shall be made or entered into and no such bonds shall be made or issued as provided in this section, until the consent of a majority of the taxable inhabitants of said city authorized to vote and voting at an annual or special election called for that purpose be first obtained for the construction of such sewer or sewers and the issue of such bonds. Such election shall be conducted, notice shall be given, and the qualifications of the voters thereat shall be the same as provided by sections one hundred and five and one hundred and six of this act.

§ 6. Such chapter is hereby amended by adding after section one hundred and eleven a new section to be section one hundred and eleven-a thereof, to read as follows:

§ 111-a. Within twenty days after this act takes effect the common council of the city of Olean as constituted by this act shall make an estimate of the additional expenditures of said city for the remainder of the then current fiscal year rendered necessary by the enlargement of said city as provided by this act and required over and above the amount of the annual estimate made by the common council in the month of March, nineteen hundred and eight. Such estimate shall be made in the manner provided by section one hundred and two of this act, and the total amount thereof shall not exceed two mills upon the dollar of the assessed valuation of the taxable property of said city as then constituted, according to the assessment rolls of the city and town of Olean made next preceding the time of such estimate. The amount of such estimate made as provided in this section shall be added to and levied as a part of the taxes to be collected in said city for the next ensuing fiscal year and shall not be deemed to be a part thereof for the purpose of determining the amount limited therefor. The common council may borrow money in anticipation of the collection of such sum so estimated as provided in this section, and issue certificates of indebtedness of said city therefor, which shall bear interest at not to exceed six per centum per annum, and shall be due and payable not more than one year from the date

of issue. Such certificates of indebtedness shall be paid out of the moneys raised by taxation in said city in the next ensuing fiscal year after the same shall be issued.

§ 7. Section one hundred and twenty-two of such chapter is hereby amended to read as follows:

§ 122. The salary or compensation of any officer of said city of Olean shall not be increased or diminished during the continuance of the term of office to which such officer shall have been elected or appointed, except that where, after the election or appointment of the officer, his duties shall have been increased, then in such case, the common council may increase his salary.

§ 8. Such chapter is hereby amended by adding after section one hundred and twenty-four a new section to be section one hundred and twenty-four-a thereof, to read as follows:

§ 124-a. All the officers of the city of Olean now in office, elected or appointed, shall continue to be the officers of the city of Olean as constituted by this act, for the remainder of the term for which they were respectively elected or appointed. The offices of all officers of the village of North Olean are hereby abolished. All officers of the town of Olean, except inspectors of election, in office at the time this act takes effect, or thereafter appointed to fill any vacancy, shall continue to perform the duties of their respective offices until the thirty-first day of December, nineteen hundred and nine, when all such offices shall become vacant, whether such officer shall reside within the city or the town of Olean as constituted after this act takes effect. At the general election held next after this act takes effect, officers shall be elected by the qualified electors of the town of Olean, as constituted after this act takes effect, to fill all vacancies in town offices which will occur on the thirty-first day of December next ensuing by reason of the provisions of this section, who shall respectively hold office for the respective terms for which the officers, whose offices are vacated by the provision of this section, would have held such offices had this act not become a law. In case the supervisor of the town of Olean in office at the time this act takes effect shall then be a resident of the seventh and eighth wards of the city of Olean, as constituted by this act, such supervisor shall be the supervisor for said seventh and eighth wards of said city for the term for which he was originally elected, and shall also continue to perform all the duties of supervisor for the town of Olean until the thirty-first day of December, nineteen hundred and nine. In case

the supervisor of the town of Olean shall not be a resident of the seventh and eighth wards of the city of Olean when this act takes effect, such office for said wards shall be deemed vacant. On the fourth Tuesday of January next after this act takes effect, an election shall be held in the seventh and eighth wards of said city for the purpose of electing two aldermen from each of said wards, one of whom in each ward shall hold office until the thirty-first day of December, nineteen hundred and nine, and one of whom in each ward shall hold office until the thirty-first day of December, nineteen hundred and ten. The common council of said city shall, within eight days after this act takes effect, designate a suitable polling place within the limits of each of said wards, and the mayor of said city shall, within ten days after this act takes effect, appoint election officers for each of said wards as required by law, who shall serve until their successors are appointed in the manner provided by law. Such election officers shall be selected equally from members of the two political parties entitled to nominate election officers as provided by the election law. Nominations shall be made and filed, notice of the election given, and such election shall be conducted and the result thereof canvassed in the manner provided by this act for special elections in said city. Any person whose name appears upon the registry lists of the town of Olean for the general election next preceding the time this act takes effect, and who is a resident of either of said wards at the time of such election, and shall have been a resident of the same ward for thirty days prior thereto, shall be entitled to vote at such election in the ward in which he resides and has so resided.

§ 9. This act shall take effect January first, nineteen hundred and nine.

Chap. 370.

AN ACT to legalize the filing of official undertakings of district attorneys.

Became a law, May 19, 1908, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The failure of any district attorney elected to such office in November, nineteen hundred and seven, to file an official undertaking within fifteen days after January first, nineteen hundred and eight, shall not work a forfeiture of, or create a vacancy in, such office, provided that such district attorney has already filed, or shall, within fifteen days after the passage of this act, file such undertaking, duly approved as required by law, in the office of the county clerk of the county in which he resides.

§ 2. Such filing, pursuant to this act, shall operate to ratify and confirm all official acts of such district attorney, and perfect his title to such office for the term for which he was elected, and be of the same effect as if filed within the time prescribed by law, any provision of law to the contrary notwithstanding.

§ 3. This act shall take effect immediately.

Chap. 371.

AN ACT to amend chapter fifty-four of the laws of eighteen hundred and seventy-one, entitled "An act to incorporate the Barrett Bridge Company," in relation to tolls.

Became a law, May 19, 1908, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section eleven of chapter fifty-four of the laws of eighteen hundred and seventy-one, entitled "An act to incorporate the Barrett Bridge Company," is hereby amended to read as follows:

§ 11. As soon as said bridge shall be completed, it shall be lawful for, and said company is hereby authorized and em-

powered to erect a toll-gate or gates at or near said bridge, and to make such gates and erections as the directors may deem expedient to guard the entrance of said bridge; and demand, receive and take, for the use of the said corporation, a toll not to exceed the following rates, to wit: For every four-wheeled pleasure carriage, drawn by four horses, fifty cents; if drawn by two horses, twenty-five cents; every stage or wagon, drawn by four horses, twenty-five cents, and if by two horses, twenty-five cents; every curricle, chaise or sulky, drawn by one horse, fifteen cents; if drawn by two horses, twenty-five cents; every wagon and two horses, mules or oxen, twenty-five cents, and five cents for every additional horse, mule or ox; every sled or sleigh, drawn by two horses, mules or oxen, twenty-five cents, and five cents for every additional horse, mule or ox; every cart, drawn by two horses, or two oxen, or two mules, twenty-five cents; every one-horse cart, wagon, sled or sleigh, fifteen cents; every automobile having a seating capacity of not more than three persons, fifteen cents; every automobile having a seating capacity of more than three persons, twenty-five cents; every man or woman or child, except for school purposes, two cents; every man and horse, twelve cents; every horse, jack or mule, five cents; every cow or other neat cattle, three cents; every score of sheep or hogs, twenty cents, and so in proportion for more or less; and it shall be lawful for the toll-gatherers at said gate or gates to stop every foot passenger and every person driving, riding or leading any beast or carriage from going through said gate, until they shall have respectively paid the toll herein allowed to be collected.

§ 2. This act shall take effect immediately.

Chap. 372.

AN ACT to create the board of trustees of the Hanover Congregational Church Society, in the county of Oneida, and defining its powers and duties.

Became a law, May 19, 1908, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Marinus W. Terry, Charles I. Peck and Edward Barton of Waterville, Oneida county, are hereby constituted a

board of trustees to be known as "The Board of Trustees of the Hanover Congregational Church Society." They shall elect their successors in office and they and their successors in office shall serve without pay.

§ 2. The said trustees are hereby authorized and empowered to assume and take charge of all and singular the property, both real and personal, of the society formerly known as the Hanover Congregational Church and with the exception of that part of the real property belonging to such society, located in the town of Marshall in said county, used as a cemetery, may sell and, by deed signed by them, or their successors, in their official capacity, convey all real property belonging to such association, or any part thereof, and may sell and dispose of all personal property, if any, belonging to such society. Such sale or sales shall be at public auction to the highest bidder and notice of such sale, stating the time and place thereof and the property to be sold, shall be published once each week for six successive weeks in at least two newspapers published in said county which will give the greatest publicity to such notice.

§ 3. All moneys derived from the sale of such property, less the actual costs and disbursements of such sale, shall be held in trust by the trustees above named and their successors in office, and shall be invested and reinvested by them in such securities as savings banks are permitted by law to invest their funds, and the income therefrom, or so much thereof as may be necessary, shall be expended by such trustees in the care of such cemetery.

§ 4. The trustees making such sale shall within thirty days thereafter make and file with the surrogate of Oneida county a statement of their proceedings under this act, the amount received from the sale of the property, the costs and expenses incurred and paid in making such sale and the amount invested and how invested, and shall annually thereafter make and file with such surrogate an account of all funds in their hands as provided by section twenty-eight hundred and forty-two of the code of civil procedure, which shall be verified as provided by section twenty-eight hundred and forty-three of the code of civil procedure.

§ 5. This act shall take effect immediately.

Chap. 373.

AN ACT to amend the county law, in relation to applying to villages the provisions thereof relating to the registration of dogs.

Became a law, May 19, 1908, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section one hundred and twenty-eight of chapter six hundred and eighty-six of the laws of eighteen hundred and ninety-two, entitled "An act in relation to counties, constituting chapter eighteen of the general laws," as added by chapter four hundred and fifty-five of the laws of nineteen hundred and one, and amended by chapter one hundred and fifty-eight of the laws of nineteen hundred and two, and chapter two hundred and twelve of the laws of nineteen hundred and six, and chapter two hundred and ninety-four of the laws of nineteen hundred and seven, is hereby amended to read as follows:

§ 128. **Adoption by county of dog registration provisions.**— The board of supervisors of any county may, by resolution adopted at an annual meeting, determine that the provisions of sections one hundred and twenty-eight to one hundred and thirty-six, both inclusive, of this article shall apply to such county, or to any specified town or village therein, after a date to be designated in such resolution, which date shall be subsequent to the last publication of the resolution as herein required, but no such resolution shall be adopted affecting any town or village in such county separately, except upon the written application of the town board of such town or the trustees of such village. Such resolution shall also prescribe the annual registration fee to be paid within such county, or within the several towns or villages specially affected by it, for every dog over four months old. A certified copy of such resolution shall be filed in the offices of the secretary of state and of the county clerk of such county, and also in the office of the clerk of the town or village affected by any such resolution if it relates to a single town or village; and such resolution, together

with sections one hundred and twenty-eight to one hundred and thirty-six, both inclusive, of this article shall be published once in each week for six successive weeks in at least two newspapers published in the county to be designated by the board of supervisors, one of which shall be a newspaper published in the town or village specially affected, if such resolution relates to a single town or village and there be a newspaper published therein. After the date specified in such resolution, which shall be subsequent to such publication, no taxes upon dogs shall be assessed in any town or village in such county affected by such resolution, and the board of supervisors may at any subsequent meeting thereof prescribe a different annual registration fee but must publish such change at least once each week for three successive weeks in at least two newspapers to be designated by the board of supervisors, but such registration fee must be uniform in any one year in all the towns and villages of the county to which such sections of this article are then applicable. The board of supervisors of such county may thereafter by resolution adopted, filed and published in like manner determine that the provisions of such sections shall not apply to such county, or to any separate town or village therein to which such provisions have been made to apply as aforesaid, and after the date specified in such resolution the provisions of law for assessment and collection of taxes on dogs shall apply to such county or to any separate town or village affected by the resolution last above mentioned, as if the resolution applying such sections had not been adopted. When a resolution is in force which applies such sections to any town and to any village therein, separately, it shall be deemed to mean that the said sections apply, in respect to such town, to that portion thereof only which is outside of the corporate limits of such village and to the dogs owned or harbored in such outside territory. None of the provisions of this or of the ensuing sections of this article shall apply to any village situate in two or more counties, or to any village in two or more towns, unless a resolution is in force which applies such sections to all parts of the towns in which such villages are situate.

§ 2. This act shall take effect immediately.

Chap. 374.

AN ACT to amend the county law, in relation to the salaries of the county judge and the surrogate of Queens county.

Became a law, May 19, 1908, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision thirty-eight of section two hundred and twenty-two of chapter six hundred and eighty-six of the laws of eighteen hundred and ninety-two, entitled "An act in relation to counties, constituting chapter eighteen of the general laws," is hereby amended to read as follows:

38. **Queens.**— $10,000; $10,000.

§ 2. The increases of salary provided for by this act shall take effect at the expiration of the terms of the present incumbents, respectively.

§ 3. This act shall take effect immediately.

Chap. 375.

AN ACT to amend chapter two hundred and ninety-four of the laws of nineteen hundred and two, entitled "An act to provide for the licensing of dogs in cities of the second class, for the care and protection of lost, strayed and homeless dogs, for securing and protecting the rights of the owners thereof, and for the protection of the public," in relation to the destruction of dogs.

Became a law, May 19, 1908, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section fourteen of chapter two hundred and ninety-four of the laws of nineteen hundred and two, entitled "An act to provide for the licensing of dogs in cities of the second class, for the care and protection of lost, strayed and homeless dogs, for securing and protecting the rights of the owners thereof, and

for the protection of the public," as amended by chapter eighty-two of the laws of nineteen hundred and four, is hereby amended to read as follows:

§ 14. **Contracts for seizing and impounding dogs.**— The mayor of any city of the second class instead of authorizing the construction of a building as provided in the last section may, in his discretion, contract with any incorporated society for the prevention of cruelty to animals having jurisdiction in such city, for the capture and impoundage of all unlicensed dogs, and for the maintenance of a shelter for lost, strayed or homeless dogs therein, provided, however, that the compensation to be paid to such person or corporation by such contract shall not exceed in any one year the amount collected by the city from the payment of license fees during the current year for which such contract is made. The mayor may prescribe in the contract the manner in which the work is to be done and in which payments are to be made by the city thereunder and may also direct the disposition to be made of any and all dogs seized pursuant to the provisions of this act. A police justice of any such city shall also have power to order the destruction of any dog which he may deem dangerous or vicious, whether licensed or not, after three days' written notice to and an opportunity to be heard by the owner of such dog.

§ 2. This act shall take effect immediately.

Chap. 376.

AN ACT to amend section forty-seven of the Greater New York charter, in relation to the powers of the board of aldermen.

Became a law, May 19, 1908, with the approval of the Governor. Passed, three-fifths being present.

Accepted by the City.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section forty-seven of the Greater New York charter, as amended by chapters one hundred and sixty-eight and four hundred and thirty-nine of the laws of nineteen hundred and seven, with respect to the powers of the board of aldermen, is hereby amended so as to read as follows:

§ 47. The board of aldermen shall have power to provide by ordinance for the acquisition, construction or establishment of

markets; for the acquisition and construction of parks, parkways, playgrounds, boulevards and driveways; for the building of bridges over, and of tunnels under any stream or waterway within or adjoining the limits of the city; for the building of docks, wharves or piers, and for acquiring land by purchase or condemnation, for said purposes; for acquiring, constructing, improving, permanently bettering and equipping public buildings, including school houses, libraries and sites therefor for the use of the city; for the repaving of streets; for building, repairing and equipping boats and vessels or other floating craft of any kind that may be needed for the use and purposes of the city; for the establishing, building and equipping of telegraph or other systems of communication for the use and purposes of the police department and other departments of the city government; for the construction and equipment of public comfort stations; for the making and completing of maps of all the territory embraced within each of the boroughs of said city; for the making and completing of surveys, maps and profiles in condemnation proceedings; and for any of the foregoing purposes may create loans and authorize the issue of bonds or other evidences of indebtedness, to pay for the same, payable at such times, and in such manner, as it may by ordinance prescribe; and at such rates of interest as the board of commissioners of the sinking fund may prescribe; but no bonds or other evidences of indebtedness shall be issued under the authority of this section, unless the proposition for creating such debt shall first be approved by a majority vote of the whole board of estimate and apportionment, entered on the minutes of record of such board. In case any bonds or corporate stock shall have been heretofore issued under authority of this section, as to which the board of aldermen did not prescribe any rate of interest by ordinance, the rate that may have been otherwise fixed and specified shall be the legal and valid rate. In addition to the specific purposes hereinbefore set forth, the board of aldermen may also create loans and authorize the issue of bonds for any other purpose connected with the exercise of the various powers conferred by this act upon the city of New York or any department or official thereof; provided, however, that no bonds or other evidences of indebtedness shall be issued for such additional purposes unless first approved by a unanimous vote of the board of estimate and apportionment, entered upon the minutes of record of said board; provided, however, that all the powers in this section or elsewhere in this act granted to the board of alder-

men shall be subject to the control of the board of estimate and apportionment over all the street, avenues, highways, boulevards, concourses, driveways, bridges, tunnels, parks, parkways, waterways, docks, bulkheads, wharves, piers and all public grounds and waters which are within or belong to the city as provided in this act.

§ 2. This act shall take effect immediately.

Chap. 377.

An ACT to amend the Greater New York charter, in relation to the appointment and duties of an additional police clerk, in the first division of the city of New York.

Became a law, May 19, 1908, with the approval of the Governor. Passed, three-fifths being present.

Accepted by the City.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section thirteen hundred and ninety-four of the Greater New York charter, as re-enacted by chapter four hundred and sixty-six of the laws of nineteen hundred and one, as amended by chapter four hundred and ten of the laws of nineteen hundred and three, is hereby amended to read as follows:

§ 1394. **Police clerks.**— The board of city magistrates of the first division shall have the authority and duty of appointing nine police clerks; each board shall regulate the time, place and manner of the discharge of the duty of the police clerks; but the police clerks in the first division in office on the first day of January, nineteen hundred and two, shall continue to hold office until the expiration of their several terms. Each police clerk in the first division shall be appointed for the term of four years, and, on making the appointment, the board shall cause three certificates to be signed by its president and secretary, each of which shall state the term of the office, the borough and division from which and the term for which the appointment is made, and when it will expire, and the secretary shall deliver one of said certificates to the person so appointed, and shall cause the other certificates to be filed, one in the office of the city clerk, and one in the office of the clerk of the county in which is situ-

ated the borough from which such person was appointed. Upon the question of the appointment of a police clerk or other appointee, in the first division the members of the board shall vote as their names are called by the secretary, and the vote of each member shall be recorded in the minutes. No clerk or other officer or employee appointed by a board of city magistrates, or by any magistrate, shall hold any other office or be interested in any other business, but they shall give their whole time to their respective duties, and shall be residents of the city of New York, and of the divisions within which they were appointed, and, in the second division, they shall each be residents of the borough from which they are appointed. Within thirty days after this section as hereby amended takes effect the board of city magistrates of the first division shall appoint such additional police clerk, making nine in all, and assign one of such police clerks to duty in the night court; it shall also appoint and assign to duty a stenographer and an interpreter; it shall appoint such additional assistants and court attendants upon the assent of the board of estimate and apportionment as may be necessary. The police clerks and the police clerks' assistants in office in said second division of the city of New York at the time this act takes effect shall continue in their respective offices until midnight of December thirty-first, nineteen hundred and one, after which date their respective duties shall cease and determine, and their different positions be deemed abolished.

§ 2. This act shall take effect immediately.

Chap. 378.

AN ACT to ratify and confirm the acts and proceedings of the attorney-general of the state of New York, in the action of Mary Smith against the people of the state of New York, in the supreme court, Queens county, Long Island, New York.

Became a law, May 19, 1908, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. That the service of the summons and complaint on the people of the state of New York by the delivery of the same

to William S. Jackson, as attorney-general of the state of New York, on the fifth day of April, nineteen hundred and seven, in an action of Mary Smith against the people of the state of New York and others, in the supreme court, New York, held in and for Queens county, New York, to recover and have admeasured and paid to her her right of dower in the premises therein described, and for a sale of said premises for said purpose, and the making of the people of the state of New York a party defendant therein be and the same is hereby permitted and consented to as of said day.

§ 2. That the appearance for the people of the state of New York by the said William S. Jackson, as attorney-general of the state of New York, in said action of Mary Smith plaintiff against the people of the state of New York and others, in the supreme court of New York, held in and for the county of Queens, to recover, have admeasured and paid in a gross sum her dower right, as the widow of Owen Smith, deceased, in the premises therein described and for a sale of said property for said purpose is hereby ratified and confirmed and all the acts and proceedings of said attorney-general in the said action and the waiver of and failure to raise the question of jurisdiction of the said court over the people of the state of New York is hereby ratified, confirmed and consented to, and the sale of the premises in said action described under, pursuant to, and according to the terms of the interlocutory judgment of sale therein is hereby ratified and confirmed.

§ 3. This act shall take effect immediately.

Chap. 379.

AN ACT to amend chapter five hundred and fifty-three of the laws of eighteen hundred and ninety-five, entitled "An act in relation to the supreme court in the first judicial district and the appellate division thereof in the first department," in relation to the compensation of official referees.

Became a law, May 19, 1908, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section five of chapter five hundred and fifty-three of the laws of eighteen hundred and ninety-five, entitled "An act

in relation to the supreme court in the first judicial district and the appellate division thereof in the first department," as amended by chapter nine hundred and fifty-nine of the laws of eighteen hundred and ninety-five, chapter two hundred and four of the laws of nineteen hundred and five, chapter one hundred and eighty-six of the laws of nineteen hundred and six and chapter four hundred and nine of the laws of nineteen hundred and seven, is hereby amended to read as follows:

§ 5. Each of the justices of the supreme court in the first judicial district elected or transferred to said court, including the justices of the appellate division in the first department, shall appoint and at pleasure remove a clerk to such justice, and four attendants upon the court. Each of said clerks to receive as salary a sum to be fixed by the justices of the appellate division and the attendants the salary now allowed by law. Each of said attendants may also be removed by the appellate division, but not until he has been informed of the cause of the proposed removal and has been allowed an opportunity to make an explanation. The appellate division of the supreme court in the first department may from time to time appoint any justice or justices of the supreme court in the first judicial district now or hereafter in office, who shall have served as a judge or justice of a court of record for twenty years or more, and who after such service shall at the age of sixty-five years or over retire from his or their said office, by expiration of term or resignation or because he or they shall have arrived at the age of seventy years, as official referee or referees, for the term of his or their life. To any of such official referees may be referred any action, matter or proceeding pending in said supreme court, referable by statute or the rules and practice of said court, in which the justice making the order of reference shall deem that for any reason the expense of such reference should not be borne by the parties to such action, matter or proceeding. The county of New York shall pay annually to each of said official referees a sum equal to the annual compensation now paid to justices of the supreme court by the said county of New York, and said referee or referees shall not charge or receive from the parties to the action, matter or proceeding any fee or compensation for any service rendered as such referee, but may charge the said parties with any disbursements actually incurred by him or them in the performance of his or their duties as such referee, provided the same be allowed by the court. If the services of a stenographer should be required in the action,

matter or proceeding so referred to such official referee, such stenographer shall be selected by said referee from the official stenographers of the supreme court, and the parties to the action, matter or proceeding shall not be required to pay any of the fees of such stenographer for taking the testimony or furnishing one copy thereof to the referee, but the same at the rate of ten cents a folio shall be paid by the county of New York.

§ 2. This act shall take effect immediately.

Chap. 380.

AN ACT to amend the Greater New York charter, relative to setting apart piers for recreation purposes.

Became a law, May 19, 1908, with the approval of the Governor. Passed, three-fifths being present.

Accepted by the City.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section eight hundred and thirty-seven of the Greater New York charter, as re-enacted by chapter four hundred and sixty-six of the laws of nineteen hundred and one, is hereby amended so as to read as follows:

§ 837. The commissioner of docks is hereby authorized to set apart piers in the city of New York as the said commissioner of docks shall deem, from time to time, necessary for the use of the inhabitants of the city of New York, as hereinafter provided, and for the convenience of dealers in country produce and other merchandise transported to the city of New York for sale. The purpose of this section is to afford the inhabitants of the city of New York greater opportunity for healthful recreation than they now possess, and to accomplish such end the said commissioner of docks is hereby authorized to construct or rebuild the piers set apart under the provisions of this section for public use in such manner as shall provide a platform or upper story thereof, and the approaches thereto, which shall be constructed under the direction of a skilled architect, who shall be employed by said commissioner of docks for that purpose. The intention

hereof being to permit the upper story of each one of the piers so set apart for public use to be wholly free to the inhabitants of said city for the purpose aforesaid without interference with business occupations, and the said piers on the lower stories thereof shall be open to use to boats and vessels plying upon canals, rivers and lakes of this state which may bring merchandise to the city for sale therein. The occupation of positions by boats at the piers herein mentioned shall be under the control of the commissioner of docks, and order shall be maintained by the police authorities of the city of New York in and around such portions of the said docks as may be set apart for recreation purposes aforesaid. Except as hereinbefore provided, no wharf, pier, bulkhead or shed shall be required by the commissioner of docks to be so constructed as to admit of the free public use of the roof thereof for the purposes of resort and recreation.

§ 2. This act shall take effect immediately.

Chap. 381.

AN ACT to amend the Greater New York charter, in relation to proceedings for the acquirement of certain wharf property in the borough of Brooklyn, in said city.

Became a law, May 19, 1908, with the approval of the Governor. Passed, three-fifths being present.

Accepted by the City.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The Greater New York charter, as re-enacted by chapter four hundred and sixty-six of the laws of nineteen hundred and one, is hereby amended by adding thereto a new section, to be section eight hundred and twenty-three-g thereof, to read as follows:

ACQUIREMENT OF CERTAIN WHARF PROPERTY IN BROOKLYN.

§ 823-g. In all proceedings hereafter taken by the commissioner of docks and ferries of the city of New York, for the acquirement of wharf property, rights, terms, easements, or privileges, or lands under water and uplands in the city of New York, if said wharf property or lands under water or uplands, or wharf

property to which said rights, terms, easements or privileges are appurtenant, is or are situated in the borough of Brooklyn, at the junction of Whale and Newtown creeks, and between said creeks and North Henry and Green streets, it shall not be necessary for the said commissioner of docks to make any attempt to agree with the owners of any such property, rights, terms, easements, privileges, uplands or lands under water, upon a price for the same before commencing the proceedings authorized by section eight hundred and twenty-two of this act. In a proceeding hereafter brought for the acquirement of any such wharf property, rights, terms, easements, or privileges, uplands or lands under water, situate as in this section set forth, if the commissioners of the sinking fund shall by resolution so direct, the title to the said wharf property, uplands and lands under water, rights, terms, easements and privileges shall vest in the city of New York at such times as said resolution shall direct, after the filing in the office of the clerk of the county where such proceedings are pending, of the oaths of the commissioners of estimate and assessment in said proceeding appointed, and all of the rights, title and interest of any and all of the owners or persons interested in the said wharf property, rights, terms, easements and privileges, or lands under water or uplands, shall cease and determine and be extinguished at such time.

§ 2. This act shall take effect immediately.

Chap. 382.

AN ACT to amend the Greater New York charter, in relation to the supply of water by meters.

Became a law, May 19, 1908, with the approval of the Governor. Passed, three-fifths being present.

Accepted by the City.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section four hundred and seventy-three of the Greater New York charter, as re-enacted by chapter four hundred and sixty-six of the laws of nineteen hundred and one, as amended

Chap. 374.

AN ACT to amend the county law, in relation to the salaries of the county judge and the surrogate of Queens county.

Became a law, May 19, 1908, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision thirty-eight of section two hundred and twenty-two of chapter six hundred and eighty-six of the laws of eighteen hundred and ninety-two, entitled "An act in relation to counties, constituting chapter eighteen of the general laws," is hereby amended to read as follows:

38. **Queens.**— $10,000; $10,000.

§ 2. The increases of salary provided for by this act shall take effect at the expiration of the terms of the present incumbents, respectively.

§ 3. This act shall take effect immediately.

Chap. 375.

AN ACT to amend chapter two hundred and ninety-four of the laws of nineteen hundred and two, entitled "An act to provide for the licensing of dogs in cities of the second class, for the care and protection of lost, strayed and homeless dogs, for securing and protecting the rights of the owners thereof, and for the protection of the public," in relation to the destruction of dogs.

Became a law, May 19, 1908, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section fourteen of chapter two hundred and ninety-four of the laws of nineteen hundred and two, entitled "An act to provide for the licensing of dogs in cities of the second class, for the care and protection of lost, strayed and homeless dogs, for securing and protecting the rights of the owners thereof, and

for the protection of the public," as amended by chapter eighty-two of the laws of nineteen hundred and four, is hereby amended to read as follows:

§ 14. **Contracts for seizing and impounding dogs.**— The mayor of any city of the second class instead of authorizing the construction of a building as provided in the last section may, in his discretion, contract with any incorporated society for the prevention of cruelty to animals having jurisdiction in such city, for the capture and impoundage of all unlicensed dogs, and for the maintenance of a shelter for lost, strayed or homeless dogs therein, provided, however, that the compensation to be paid to such person or corporation by such contract shall not exceed in any one year the amount collected by the city from the payment of license fees during the current year for which such contract is made. The mayor may prescribe in the contract the manner in which the work is to be done and in which payments are to be made by the city thereunder and may also direct the disposition to be made of any and all dogs seized pursuant to the provisions of this act. A police justice of any such city shall also have power to order the destruction of any dog which he may deem dangerous or vicious, whether licensed or not, after three days' written notice to and an opportunity to be heard by the owner of such dog.

§ 2. This act shall take effect immediately.

Chap. 376.

AN ACT to amend section forty-seven of the Greater New York charter, in relation to the powers of the board of aldermen.

Became a law, May 19, 1908, with the approval of the Governor. Passed, three-fifths being present.

Accepted by the City.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section forty-seven of the Greater New York charter, as amended by chapters one hundred and sixty-eight and four hundred and thirty-nine of the laws of nineteen hundred and seven, with respect to the powers of the board of aldermen, is hereby amended so as to read as follows:

§ 47. The board of aldermen shall have power to provide by ordinance for the acquisition, construction or establishment of

markets; for the acquisition and construction of parks, parkways, playgrounds, boulevards and driveways; for the building of bridges over, and of tunnels under any stream or waterway within or adjoining the limits of the city; for the building of docks, wharves or piers, and for acquiring land by purchase or condemnation, for said purposes; for acquiring, constructing, improving, permanently bettering and equipping public buildings, including school houses, libraries and sites therefor for the use of the city; for the repaving of streets; for building, repairing and equipping boats and vessels or other floating craft of any kind that may be needed for the use and purposes of the city; for the establishing, building and equipping of telegraph or other systems of communication for the use and purposes of the police department and other departments of the city government; for the construction and equipment of public comfort stations; for the making and completing of maps of all the territory embraced within each of the boroughs of said city; for the making and completing of surveys, maps and profiles in condemnation proceedings; and for any of the foregoing purposes may create loans and authorize the issue of bonds or other evidences of indebtedness, to pay for the same, payable at such times, and in such manner, as it may by ordinance prescribe; and at such rates of interest as the board of commissioners of the sinking fund may prescribe; but no bonds or other evidences of indebtedness shall be issued under the authority of this section, unless the proposition for creating such debt shall first be approved by a majority vote of the whole board of estimate and apportionment, entered on the minutes of record of such board. In case any bonds or corporate stock shall have been heretofore issued under authority of this section, as to which the board of aldermen did not prescribe any rate of interest by ordinance, the rate that may have been otherwise fixed and specified shall be the legal and valid rate. In addition to the specific purposes hereinbefore set forth, the board of aldermen may also create loans and authorize the issue of bonds for any other purpose connected with the exercise of the various powers conferred by this act upon the city of New York or any department or official thereof; provided, however, that no bonds or other evidences of indebtedness shall be issued for such additional purposes unless first approved by a unanimous vote of the board of estimate and apportionment, entered upon the minutes of record of said board; provided, however, that all the powers in this section or elsewhere in this act granted to the board of alder-

men shall be subject to the control of the board of estimate and apportionment over all the street, avenues, highways, boulevards, concourses, driveways, bridges, tunnels, parks, parkways, waterways, docks, bulkheads, wharves, piers and all public grounds and waters which are within or belong to the city as provided in this act.

§ 2. This act shall take effect immediately.

Chap. 377.

An ACT to amend the Greater New York charter, in relation to the appointment and duties of an additional police clerk, in the first division of the city of New York.

Became a law, May 10, 1908, with the approval of the Governor. Passed, three-fifths being present.

Accepted by the City.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section thirteen hundred and ninety-four of the Greater New York charter, as re-enacted by chapter four hundred and sixty-six of the laws of nineteen hundred and one, as amended by chapter four hundred and ten of the laws of nineteen hundred and three, is hereby amended to read as follows:

§ 1394. **Police clerks.**— The board of city magistrates of the first division shall have the authority and duty of appointing nine police clerks; each board shall regulate the time, place and manner of the discharge of the duty of the police clerks; but the police clerks in the first division in office on the first day of January, nineteen hundred and two, shall continue to hold office until the expiration of their several terms. Each police clerk in the first division shall be appointed for the term of four years, and, on making the appointment, the board shall cause three certificates to be signed by its president and secretary, each of which shall state the term of the office, the borough and division from which and the term for which the appointment is made, and when it will expire, and the secretary shall deliver one of said certificates to the person so appointed, and shall cause the other certificates to be filed, one in the office of the city clerk, and one in the office of the clerk of the county in which is situ-

ated the borough from which such person was appointed. Upon the question of the appointment of a police clerk or other appointee, in the first division the members of the board shall vote as their names are called by the secretary, and the vote of each member shall be recorded in the minutes. No clerk or other officer or employee appointed by a board of city magistrates, or by any magistrate, shall hold any other office or be interested in any other business, but they shall give their whole time to their respective duties, and shall be residents of the city of New York, and of the divisions within which they were appointed, and, in the second division, they shall each be residents of the borough from which they are appointed. Within thirty days after this section as hereby amended takes effect the board of city magistrates of the first division shall appoint such additional police clerk, making nine in all, and assign one of such police clerks to duty in the night court; it shall also appoint and assign to duty a stenographer and an interpreter; it shall appoint such additional assistants and court attendants upon the assent of the board of estimate and apportionment as may be necessary. The police clerks and the police clerks' assistants in office in said second division of the city of New York at the time this act takes effect shall continue in their respective offices until midnight of December thirty-first, nineteen hundred and one, after which date their respective duties shall cease and determine, and their different positions be deemed abolished.

§ 2. This act shall take effect immediately.

Chap. 378.

AN ACT to ratify and confirm the acts and proceedings of the attorney-general of the state of New York, in the action of Mary Smith against the people of the state of New York, in the supreme court, Queens county, Long Island, New York.

Became a law, May 19, 1908, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. That the service of the summons and complaint on the people of the state of New York by the delivery of the same

to William S. Jackson, as attorney-general of the state of New York, on the fifth day of April, nineteen hundred and seven, in an action of Mary Smith against the people of the state of New York and others, in the supreme court, New York, held in and for Queens county, New York, to recover and have admeasured and paid to her her right of dower in the premises therein described, and for a sale of said premises for said purpose, and the making of the people of the state of New York a party defendant therein be and the same is hereby permitted and consented to as of said day.

§ 2. That the appearance for the people of the state of New York by the said William S. Jackson, as attorney-general of the state of New York, in said action of Mary Smith plaintiff against the people of the state of New York and others, in the supreme court of New York, held in and for the county of Queens, to recover, have admeasured and paid in a gross sum her dower right, as the widow of Owen Smith, deceased, in the premises therein described and for a sale of said property for said purpose is hereby ratified and confirmed and all the acts and proceedings of said attorney-general in the said action and the waiver of and failure to raise the question of jurisdiction of the said court over the people of the state of New York is hereby ratified, confirmed and consented to, and the sale of the premises in said action described under, pursuant to, and according to the terms of the interlocutory judgment of sale therein is hereby ratified and confirmed.

§ 3. This act shall take effect immediately.

Chap. 379.

AN ACT to amend chapter five hundred and fifty-three of the laws of eighteen hundred and ninety-five, entitled "An act in relation to the supreme court in the first judicial district and the appellate division thereof in the first department," in relation to the compensation of official referees.

Became a law, May 19, 1908, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section five of chapter five hundred and fifty-three of the laws of eighteen hundred and ninety-five, entitled "An act

in relation to the supreme court in the first judicial district and the appellate division thereof in the first department," as amended by chapter nine hundred and fifty-nine of the laws of eighteen hundred and ninety-five, chapter two hundred and four of the laws of nineteen hundred and five, chapter one hundred and eighty-six of the laws of nineteen hundred and six and chapter four hundred and nine of the laws of nineteen hundred and seven, is hereby amended to read as follows:

§ 5. Each of the justices of the supreme court in the first judicial district elected or transferred to said court, including the justices of the appellate division in the first department, shall appoint and at pleasure remove a clerk to such justice, and four attendants upon the court. Each of said clerks to receive as salary a sum to be fixed by the justices of the appellate division and the attendants the salary now allowed by law. Each of said attendants may also be removed by the appellate division, but not until he has been informed of the cause of the proposed removal and has been allowed an opportunity to make an explanation. The appellate division of the supreme court in the first department may from time to time appoint any justice or justices of the supreme court in the first judicial district now or hereafter in office, who shall have served as a judge or justice of a court of record for twenty years or more, and who after such service shall at the age of sixty-five years or over retire from his or their said office, by expiration of term or resignation or because he or they shall have arrived at the age of seventy years, as official referee or referees, for the term of his or their life. To any of such official referees may be referred any action, matter or proceeding pending in said supreme court, referable by statute or the rules and practice of said court, in which the justice making the order of reference shall deem that for any reason the expense of such reference should not be borne by the parties to such action, matter or proceeding. The county of New York shall pay annually to each of said official referees a sum equal to the annual compensation now paid to justices of the supreme court by the said county of New York, and said referee or referees shall not charge or receive from the parties to the action, matter or proceeding any fee or compensation for any service rendered as such referee, but may charge the said parties with any disbursements actually incurred by him or them in the performance of his or their duties as such referee, provided the same be allowed by the court. If the services of a stenographer should be required in the action,

matter or proceeding so referred to such official referee, such stenographer shall be selected by said referee from the official stenographers of the supreme court, and the parties to the action, matter or proceeding shall not be required to pay any of the fees of such stenographer for taking the testimony or furnishing one copy thereof to the referee, but the same at the rate of ten cents a folio shall be paid by the county of New York.

§ 2. This act shall take effect immediately.

Chap. 380.

AN ACT to amend the Greater New York charter, relative to setting apart piers for recreation purposes.

Became a law, May 19, 1908, with the approval of the Governor. Passed, three-fifths being present.

Accepted by the City.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section eight hundred and thirty-seven of the Greater New York charter, as re-enacted by chapter four hundred and sixty-six of the laws of nineteen hundred and one, is hereby amended so as to read as follows:

§ 837. The commissioner of docks is hereby authorized to set apart piers in the city of New York as the said commissioner of docks shall deem, from time to time, necessary for the use of the inhabitants of the city of New York, as hereinafter provided, and for the convenience of dealers in country produce and other merchandise transported to the city of New York for sale. The purpose of this section is to afford the inhabitants of the city of New York greater opportunity for healthful recreation than they now possess, and to accomplish such end the said commissioner of docks is hereby authorized to construct or rebuild the piers set apart under the provisions of this section for public use in such manner as shall provide a platform or upper story thereof, and the approaches thereto, which shall be constructed under the direction of a skilled architect, who shall be employed by said commissioner of docks for that purpose. The intention

§ 512. **Judges.**— There shall be three judges of the municipal court of Buffalo, who shall be elected and hold their offices for the term of six years. The two judges in office at the time this act takes effect shall serve out the terms for which they were respectively elected. At the general election held in nineteen hundred and nine a third judge shall be elected for the term of six years. At the annual election next preceding the close of each of said terms, and every six years thereafter a judge shall be elected to serve six years. No person shall be eligible to the office of judge of said court unless he shall be a resident elector of the city of Buffalo, and be a counselor of the supreme court of the state of New York. It shall be the duty of each of said judges to hold court in the city of Buffalo, to be called the municipal court of Buffalo, at a place provided by the common council of the city of Buffalo for such purpose, and the office of the clerk of said court shall be open for the transaction of business daily, except Sundays and legal holidays, from nine o'clock in the forenoon until five o'clock in the afternoon. Said judges shall hear, try and determine any action or proceeding brought therein where there is no demand or direction for a jury trial and preside at a trial by jury. Said judges shall hold a meeting within a reasonable time after this act takes effect, elect one of their number presiding judge, designate the clerk of said court as the secretary of said meeting, and shall make all rules necessary for the conduct of their meetings. They are hereby empowered to and shall, by a majority vote, adopt rules fixing:

1. The hours for holding court.
2. The manner in which the duties of all officers and employees of the court shall be performed.
3. The manner in which the calendars of such court shall be made up and the disposition of causes upon the calendar of the court.
4. The order of business before each of such judges and the disposition thereof.
5. The conduct of trials, the practice in such court, adjournments and other disposition of actions or proceedings not otherwise expressly provided for in this act.
6. Such forms of practice as may be proper or necessary.

Such rules shall be printed within a reasonable time after their adoption, and publicly posted in each of the court rooms of said court. Said judges shall hold such meetings from time to time as shall be necessary for the revising or amendment of such rules.

During the sickness or other inability of any of the judges to discharge his or their duties, the mayor may appoint a person or persons having the qualifications provided hereinabove, to perform such duties. The death or removal of any judge shall not affect any process, action, judgment, execution or proceeding.

§ 513. The common council shall designate the place for the holding of the court, and provide suitable rooms and furniture and necessary blank-books, blanks and stationery for the use of said court, and shall provide for the payment of the salaries of the judges, clerks and stenographers.

§ 514. **Jurisdiction.**— The court shall have and possess in civil actions and proceedings the powers and jurisdiction as heretofore possessed and exercised by justices of the peace in the city, except as herein provided, and the additional powers and jurisdiction hereby conferred as follows:

1. In all civil actions and proceedings cognizable by law in the justices' courts of towns.

2. In actions arising on contracts for the recovery of money only, other than a promise to marry, if the sum claimed does not exceed one thousand dollars; and also in actions for a breach of contract where the damages claimed do not exceed one thousand dollars.

3. In a matter of account, when the sum total of the accounts of both parties, proved to the satisfaction of the court, does not exceed two thousand dollars.

4. In an action for damages for injury to rights pertaining to the person, or to personal or real property, or for the conversion of personal property, if the damages claimed do not exceed one thousand dollars.

5. In an action for a penalty not exceeding one thousand dollars.

6. In an action upon a constable's, marshal's or other bond for the payment of money not exceeding one thousand dollars, though the penalty exceed that sum, the judgment to be given for the sum actually due. Where payments are to be made by installments an action may be brought for each installment as it becomes due.

7. In an action upon a surety bond or undertaking taken by said court when the amount claimed does not exceed one thousand dollars.

8. In an action upon a judgment rendered in a court not of record, where such action is not prohibited by the provisions of the code of civil procedure.

9. To take and enter judgment on the confession of a defendant, when the amount confessed shall not exceed one thousand dollars, in the manner prescribed by sections three thousand and ten, three thousand and eleven and three thousand and twelve of the code of civil procedure.

10. In an action for damages for fraud or deceit if the damages claimed do not exceed one thousand dollars.

11. In an action to recover the possession of personal property the value of which, as stated in the affidavit of the plaintiff;* shall not exceed one thousand dollars, the same proceedings to be had as are provided by law to be had in the justices' court.

12. Summary proceedings under title two, chapter seventeen (section two thousand two hundred and thirty-one) of the code of civil procedure, to recover possession of land, situated in the city of Buffalo and to remove tenants and others, the process to be made returnable before said court by its proper title. Where the proceeding is brought for the nonpayment of rent the court must specify the amount of rent due and unpaid to the petitioner, if any, at the time of the commencement of the proceedings, in its final order, and likewise the hour of the entry of such order and no warrant for the removal of the tenant shall issue until after the expiration of twenty-four hours after the entry of such final order.

13. In actions or proceedings under the statute for the enforcement of the liens of mechanics and others, where the amount of the lien does not exceed the sum of one thousand dollars, the same proceedings to be had as are provided by law to be had in the justices' courts.

14. The court shall also have jurisdiction in an action commenced for the recovery of a fine or penalty for the violation of a city ordinance, and of an action or proceeding instituted for the punishment of any person for the offense of violating any such ordinance.

15. In an action commenced by an attachment of property, as now provided by statute, if the debt or damages claimed do not exceed one thousand dollars.

16. To issue or vacate a warrant of attachment, an order of arrest in a civil action, a requisition to replevy, or to grant or vacate a stay of execution or proceedings as provided in this act.

17. An administrator or executor, as such, may sue or be sued in said court, where the amount claimed does not exceed one

* So in original.

thousand dollars; provided, however, that action cannot be brought against an administrator or executor, as such, unless the claim sued upon has been presented to such administrator or executor, and been rejected, or there has been a failure to pay same within three months from the date of such presentation. Costs shall not be awarded against an administrator or executor except as provided in section eighteen hundred and thirty-six of the code of civil procedure.

18. To adjourn causes before it; to open defaults; to vacate, set aside, modify or correct judgments or final orders rendered in said court, or executions or warrants issued thereon, including a case in which a transcript of the judgment has been filed in the county clerk's office; to grant an order of interpleader as provided in section eight hundred and twenty of the code of civil procedure.

19. Where a jury trial is had it is vested with the same powers as are conferred by law upon the supreme court in the trial of an action and may set aside any verdict rendered as provided by section nine hundred and ninety-nine of the code of civil procedure.

20. It shall have no jurisdiction in any civil action involving the title to real property, nor shall it have any equity jurisdiction.

§ 515. **Process.**— Process shall be the same as now provided for justices' courts, except as otherwise provided in this act. It shall be signed by a judge of the court or by the clerk or deputy clerk thereof, and shall be made returnable before the court by its proper title. It shall be served in the same manner as now provided by the code of civil procedure except as otherwise provided in this act.

§ 516. **Conduct of trial.**— On the trial of all causes in the municipal court, the mode of conducting the trial, the rules of evidence, the examination and swearing of the jury, shall be the same as prevails in the supreme court.

§ 517. **Commencement of action; summons and parties.**—An action must be commenced by the service of the summons or the voluntary appearance of the parties. The summons shall state the names of all the parties plaintiff and defendant, but if the defendant's name is unknown, a fictitious name shall be stated. It shall summon the defendant to appear at said court at a time therein specified to answer the plaintiff's complaint. It shall be issued and signed by a judge of the court or the clerk or deputy clerk.

§ 518. **Service of summons.**— Service of the summons shall be made as provided in section five hundred and nineteen of this

act and in the manner provided for by the code of civil procedure in justices' courts; except that the court may make an order for service of a summons and a verified complaint upon a defendant residing in the city of Buffalo, by order where satisfactory proof is made, by the affidavit of a person not a party to the action and the return of a marshal, that after proper and diligent search for the purpose of serving the summons and complaint upon the defendant, the place of his sojourn cannot be found, or that he is within the city and avoids service or has gone from the city for the purpose of avoiding same. The order shall direct that the summons and complaint be served by leaving a copy thereof, with a copy of the order, with a person of proper age at the defendant's residence, or if after diligent effort no such person can be found, that the said summons and complaint and a copy of the order be affixed to the outer or other door of defendant's residence and a true copy of each deposited in the postoffice in the city of Buffalo, properly inclosed in a postpaid wrapper, addressed to him at his place of residence. If no such residence can be found, service of the summons and complaint may be made in such manner as the court shall direct. The order, summons and complaint with an affidavit showing service pursuant to the order, shall be filed with the clerk, and service shall be then deemed complete, with the same effect as if personally made. Such service must be made not less than six days before the return day. Where the summons and complaint are served, pursuant to an order made as herein prescribed, and the defendant so served does not appear, he or his representative must upon good cause shown and upon just terms be allowed to defend the action at any time within three months after the entry of judgment thereupon and personal service of written notice thereof; or if such notice has not been served, within two years after the entry of the judgment. If the defense is successful, and the judgment, or any part thereof, has been collected or otherwise enforced, such restitution may thereupon be compelled as the court directs, but the title to property sold to a purchaser in good faith by virtue of an execution issued upon the judgment shall not be affected thereby.

§ 519. **Who may serve summons, et cetera.**— The summons, and in a proper case a copy of the complaint or a subpœna may be served by a marshal or by any person not a party to the action, who is over the age of eighteen years except that precepts in summary proceeding shall be served by a marshal.

Proof of service must be made by his affidavit, which must state the particular place, time and manner of service, and that the affiant knew the person so served to be the person mentioned therein. The same fees and disbursements for such service shall be allowed the person making same as are now allowed in the justice court for service by a constable.

§ 520. **Return day.**— The return day mentioned in the summons must not be more than twelve days from its date, and except in the case where an order of arrest has been issued, must be served at least six days before the time of appearance. The defendant shall, if he answers, file his answer with the court and serve a copy thereof on the same day upon the plaintiff or his attorney. Each action or proceeding shall be called at the time specified in the mandate or process by which it is commenced, or as soon thereafter as the business of the court will permit; and the authority of any attorney or counselor of the supreme court who shall appear for any party shall be presumed.

§ 521. **Pleadings.**— The pleadings shall consist of a complaint by plaintiff, an answer by defendant, and a demurrer by either party to the pleading of his adversary. If upon the return day a party appear by an attorney-at-law, his pleadings shall be in writing and shall be signed by the party or his attorney, but need not be verified except as hereinafter specified.

§ 522. **The complaint.**— The complaint shall state in a plain and direct manner the facts constituting the cause of action. The plaintiff may, at the time of issuing the summons, file with the clerk the original written complaint in the action, and may thereupon serve a copy of same with the summons upon the defendant, in the manner provided herein for service of the summons. When served with the summons the complaint shall be subscribed by the plaintiff or his attorney, and shall be verified as provided in section five hundred and twenty-five of the code of civil procedure.

§ 523. **The answer.**— The answer may contain a general or specific denial of each material allegation of the complaint controverted by defendant or of any knowledge or information thereof sufficient to form a belief. It may also contain a statement in a plain and direct manner of any new matter constituting a defense or counterclaim. If in writing it shall be subscribed by the defendant or his attorney, and verified, if a verified complaint shall have been served with the summons as above provided, and all allegations of such complaint not denied in such answer shall be deemed admitted.

§ 524. **Counterclaims.**— Sections five hundred and one and five hundred and two of the code of civil procedure shall apply to counterclaims. If the facts constituting a counterclaim would constitute a cause of action for an amount over which the court has no jurisdiction, it may nevertheless be interposed and judgment rendered thereupon to the extent of the jurisdiction of the court, exclusive of costs. The judgment upon such counterclaim shall state whether it is the whole amount found due thereupon, and if it is not, the party interposing same shall not be estopped from bringing a separate action for the balance remaining.

§ 525. **Demurrer.**— Either party may demur to the pleading of his adversary or of any part thereof when it is not sufficiently explicit to be understood, or in any case as provided in sections four hundred and eighty-eight, four hundred and ninety-four and four hundred and ninety-five of the code of civil procedure. If the court deem the objection well founded it shall order the pleadings amended within not to exceed five days. If the pleading be not amended it shall be disregarded.

§ 526. **Amendments.**— The pleadings may be amended at any time before or during trial or upon appeal by an order of the court where it is made to appear that substantial justice will be promoted thereby. If made before trial and the pleading amended be in writing a copy of the amended pleading shall be served on the adverse party or his attorney within a time fixed by the court. The court may adjourn the trial of the cause if it be made to appear that because of the amendment such adjournment is necessary, and may thereupon impose such terms as it deems proper. A variance between the proof on the trial and the allegations in the pleadings shall be disregarded as immaterial unless the court shall be satisfied that the adverse party has been misled to his prejudice thereby.

§ 527. **Bills of particulars.**— The municipal court at the joinder of issue, or within three days thereafter, upon one day's notice may, upon the request of either party, require the other party to furnish a bill of particulars of the claim, which, if the pleadings are verified, shall also be verified, and if the original pleading be in writing a copy thereof shall be served upon the adverse party, or if he appear by attorney, upon his attorney, within two days thereafter. The court may extend such time if

it be made to appear by affidavit, that such bill of particulars cannot be prepared and served within the time so specified. In case of default thereupon, such party shall be precluded from giving evidence of such part of his claim as he shall not have served particulars of after having been so directed by the court.

§ 528. **Adjournments.**—At the time of the joinder of issue, the court shall adjourn any case or proceeding before it upon the request of either party for not more than eight days, and may at any time before trial, upon such terms as to it may seem just in its discretion, adjourn such an action or proceeding where it is made to appear by affidavit that either of the parties to such action or proceeding, is unable to proceed to trial because of the absence of a material witness, or that either of the attorneys is engaged in another court, or confined because of illness, or that either of the parties thereto is unable to attend because of illness or that substantial justice will be promoted thereby. Where the parties appear by attorney, such trial or proceeding may be adjourned upon the filing with the court of a stipulation in writing signed by both attorneys, stating the time to which said action or proceeding is adjourned. But no adjournments can be granted after the return of a jury unless the party requiring the same in addition to the other conditions imposed upon him, deposit with the clerk the sum of four dollars, but no jury fee or sum for the summoning of jurors may be included as part of the costs in the judgment, other than the sum originally paid.

§ 529. **Judgment.**— Judgment shall be rendered forthwith in the following cases:

1. Upon the confession of the defendant, nonsuit, discontinuance or withdrawal of the action, or upon the verdict of a jury unless otherwise directed by the court and in all cases where a defendant is in custody at the close of the trial.

2. In all cases provided by section four hundred and twenty of the code of civil procedure where a verified complaint has been served with the summons and the defendant fails to answer as provided herein, he shall be deemed to have admitted the allegations of the complaint, and upon the filing of the summons and complaint with proof of due service thereof, the court shall forthwith enter judgment for plaintiff for the amount demanded in the complaint, with the costs and disbursements, without further proof. In all other cases within ten days after the cause shall have been finally submitted, except in cases where all the parties are repre-

sented by attorneys, and shall extend the time by stipulation in which case, within the time mentioned in said stipulation. In all cases not hereinbefore provided for judgment shall not be rendered unless plaintiff proves his case. The clerk shall enter all judgments rendered in said court in its docket within ten days from the rendition thereof.

§ 530. **Severance of actions.**— When the answer of the defendant expressly or by not denying admits a part of the plaintiff's claim in an action brought in this court to be just, the court, upon the plaintiff's motion, may, in its discretion, order that the action be served; that a judgment be entered for the plaintiff for the part so admitted, with costs, and, if the plaintiff so elects, that the action be continued with the like effect as to the subsequent proceeding as if it had been originally brought for the remainder of the claim. The court must enter in its minutes the time and manner of the plaintiff's election. If the plaintiff elects to continue the action his right to costs upon the judgment is the same as if it was taken in an action brought for only that part of the claim. If the plaintiff does not elect to continue the action costs must be awarded as upon final judgment in any other case. If in an action upon a contract, where the complaint demands judgment for a sum of money only against two or more defendants, jointly or severally liable, any one or more of said defendants fail to answer, and the other defendant or defendants answer, the court shall, on plaintiff's motion, enter judgment against said defaulting defendant or defendants, with costs; and shall continue the said action against said defendant or defendants answering until final judgment, as in any other case.

§ 531. **Offer of judgment.**— The defendant may on the return day of process, or upon the call of the case on any adjourned day before the day of trial, make an offer to allow judgment to be taken against him for an amount to be stated in such offer, with costs, which offer the court shall at once enter in its minutes. The plaintiff shall thereupon, and before any proceedings shall be had in the action, determine whether he will accept or reject such offer. If he accepts the offer, the court shall enter such acceptance in its minutes and judgment shall be rendered accordingly. If the plaintiff shall not accept said offer, and shall fail to obtain judgment for a greater amount, exclusive of costs, than has been specified in the offer, he shall not recover costs, but shall pay to the defendant his costs accruing subsequent to the offer.

§ 532. **Transcript of judgment.**— Any clerk of the court, on the demand of a party in whose favor judgment shall have been rendered, shall give a transcript thereof, stating the names of the parties, plaintiff and defendant, the date of the rendition of the judgment, in whose favor rendered, the amount thereof, the date of issue of such transcript, the name of the attorney, if any, who appeared for the party in whose favor the judgment was rendered, which may be filed and docketed in the office of the clerk of Erie county; the time of the receipt of the transcript by said last-named clerk shall be noted thereon and entered in his docket, and from that time the judgment shall be a judgment of the county court. Such attorney shall thereafter have the same power and authority to cancel and discharge such judgment that is now vested in attorneys where a judgment is recovered in a court of record. A certified transcript of such judgment may be filed and docketed in the clerk's office of any other county, and with like effect in every respect as in the county where the judgment was rendered, except that it shall be a lien only from the time of the filing and docketing the transcript. But no such judgment for a sum less than twenty-five dollars, exclusive of costs, shall be a lien upon or enforced against real property.

§ 533. **Jury trial; demand of; waiver of.**—At the time of the joinder of an issue of fact, or upon the first adjourned day thereafter, either party may demand a trial by jury, and unless so demanded, a jury trial is waived. The party demanding the trial by jury shall forthwith pay to the clerk, the sum of five dollars. Either party may demand a jury of twelve men and shall forthwith pay to the clerk the sum of ten dollars. In default of such payment the court shall proceed as if no demand for trial by jury had been made. When a jury trial is demanded, the trial of the case may be adjourned by the court for such time as it deems reasonable and proper.

§ 534. **Issue of fact and law; judgment within what time to be rendered.**— Upon the issue of fact joined if a jury trial be not demanded, as provided in this act, the court must hear the evidence, and decide all questions of fact and law, and render judgment accordingly within ten days from the time the same was submitted for that purpose, except when the defendant is under arrest, and has not given security for his appearance, in which case the court shall render judgment immediately after the close of the trial. Further time may be given by the consent of parties or their attor-

neys in writing or in open court. All issues of law shall be heard and decided by the court, without a jury.

§ 535. **Court may direct trial by jury; when.**— When an issue of fact has been joined in an action or special proceeding, and a trial by jury has not been demanded, the judge presiding at the trial may, in his discretion, at any stage of the action or proceeding, direct that a trial thereof be had by jury and a trial by jury shall thereupon be had in the same manner as though either of the parties had demanded it, and the court shall require the fee of five dollars for such jury, to be paid by plaintiff and taxed as part of the costs. If, after a trial shall have been had before the court, without a jury, the judge shall within ten days after the submission of the case or proceeding certify that the case is of such a conflicting nature that he has been unable to determine the issue of fact, and that he deems it proper that the same should be tried by jury, he may, by order, set the same down for trial by a jury for a day not more than eight days from the time of the making of the order, and thereupon the action or proceeding shall be continued in court, and tried by jury as hereinbefore provided in the case where trial by jury is ordered by the court before trial.

§ 536. **Interpleader by order in certain cases.**—A defendant against whom an action to recover upon a contract, or an action to recover a chattel, is pending, may, at any time before answer, upon proof, by affidavit, that a person, not a party to the action, makes a demand against him for the same debt or property, without collusion with him, apply to the court, upon three days' notice to that person, and the adverse party, for an order to substitute that person, in his place, and to discharge him from liability to either, on his paying into court the amount of the debt, or delivering the possession of the property, or its value, to such person as the court directs; or upon it appearing that the defendant disputes, in whole or in part, the liability as asserted against him by different claimants, or that he has some interest in the subject-matter of the controversy, which he desires to assert, his application may be for an order joining the other claimant or claimants, as codefendants with him in the action. The court may, in its discretion, make such order, upon such terms as to costs and payments into court of the amount of the debt, or part thereof, or delivery of the possession, of the property, or its value or part thereof, as may be just and thereupon the entire controversy may be determined in the action.

§ 537. **Submission of a controversy upon facts admitted.**—When an action or summary proceeding has been commenced according to the provisions of this act, upon its being reached for trial, the parties, being of full age, may agree upon a statement of the facts upon which the controversy depends and may present a written submission thereof to the court. Such statement must be accompanied with the affidavit of one or more of the parties to the effect that the controversy is real and that the submission is made in good faith, for the purpose of determining the rights of the parties.

§ 538. **Court may open default.**— The court, in an action or summary proceeding, may at any time, upon motion made upon such notice as the court may direct, open such default, and set aside, vacate or modify any judgment or final order entered thereon, and set the action or proceeding down for pleading, hearing or trial, as the case may require, upon such terms and conditions as the court may deem proper.

§ 539. **Vacating judgments.**— The court may in its discretion and upon such terms as it may deem just, vacate, modify or correct any judgment rendered in said court, because of irregularity, fraud, clerical error or newly discovered evidence, upon not less than five days nor more than ten days' notice to be given by serving a notice together with a copy of the judgment and copy of all papers to be used on the motion upon the adverse party or his attorney.

§ 540. **Setting aside verdict.**—A judge of said court may upon such terms as he shall deem just set aside the verdict of a jury rendered in a cause before him where it appears that it is contrary to law or the evidence, but such motion shall be made within five days from the time the verdict is rendered upon two days' notice. Such motion may also be made at the time the verdict is rendered. All proceedings on said verdict may be stayed until the determination of such motion. Upon the determination thereof the court may restore the case to the calendar for trial and fix the time therefor.

§ 541. **Costs.**— In all actions brought in this court, there shall be allowed by way of indemnity to the plaintiff, if he be the prevailing party, and shall have appeared by an attorney-at-law, in addition to the fees and disbursements allowed in justice court and by this act, the following sums as costs, which shall be included in the judgment:

1. When the damages recovered amount to five dollars, but do not amount to one hundred dollars, and where actions are for

wages, even if the recovery does not amount to five dollars, the sum of three dollars.

2. When the damages amount to one hundred dollars or more but do not amount to five hundred dollars the additional sum of two dollars for each additional one hundred dollars or fraction thereof recovered.

3. When the damages amount to five hundred dollars or more the additional sum of one dollar for each additional one hundred dollars or fraction thereof.

4. If the defendant be the prevailing party and shall have appeared by an attorney-at-law, he shall be allowed the same costs as plaintiff would have been entitled to under subdivisions one, two and three of this section had he recovered the amount demanded in the complaint.

5. Where issue has been joined upon a question of fact, there shall be allowed to the plaintiff, in addition to the sums hereinbefore specified, where the damages recovered amount to the sum of twenty-five dollars and do not exceed the sum of fifty dollars, the sum of three dollars; where the damages recovered amount to more than the sum of fifty dollars, and do not exceed the sum of one hundred dollars, the sum of five dollars; where the damages recovered amount to more than one hundred dollars and do not exceed the sum of five hundred dollars, the additional sum of five dollars for each additional one hundred dollars or fraction thereof recovered; where the damages recovered amount to more than five hundred dollars, the additional sum of one dollar for each additional one hundred dollars or fraction thereof recovered; and if on a trial of such issue the defendant prevail, or the action is discontinued or dismissed, he shall be entitled to have judgment rendered against the plaintiff for the amount of the costs allowed the defendant by subdivision four of this section, and also the same additional costs as would be allowed plaintiff had he recovered the amount demanded in the complaint. If the defendant shall interpose a counterclaim and recover judgment thereon he shall be allowed such costs as plaintiff would have been entitled to had the complaint demanded judgment for the amount recovered by defendant.

6. Where an action is brought to recover a chattel the value thereof as fixed by the judgment shall be considered damages for the purposes of this section.

7. To the prevailing party upon the argument of a demurrer, unless the determination thereof disposes of the cause finally, not to exceed ten dollars in the discretion of the court.

8. Where a commission is issued on behalf of the plaintiff or defendant, to the prevailing party the sum of ten dollars in addition to the fees or disbursements now provided for by section thirty-three hundred and twenty-five of the code of civil procedure.

Upon appeal the appellant upon reversal shall include in his bill of costs and the clerk of the appellate court shall tax the costs and disbursements that he would have been entitled to in this court had the judgment in this court been in his favor in addition to the costs provided for by the code of civil procedure, and shall be entitled to include same in his judgment.

§ 542. **Action by domestic servant, mechanic, et cetera.**— In an action brought in this court by domestic servant to recover for services performed by her, or by a common or unskilled laborer, having a family dependent upon him for support, for wages due him, if the plaintiff recovers a judgment for a sum not exceeding twenty-five dollars exclusive of costs, no property of the defendant is exempt from levy and sale by virtue of an execution against property issued thereupon, and if such an execution is returned wholly or partly unsatisfied the clerk must, upon the application of the plaintiff and the order of the judge of said court, issue an execution against the person of the defendant for the sum remaining uncollected. A defendant arrested by virtue of an execution so issued against his or her person must be actually confined in the jail, and is not entitled to the liberties thereof, but he or she must be discharged after having been so confined fifteen days. After his or her discharge an execution against his or her person cannot be issued upon the judgment, but the judgment creditor may enforce judgment against property as if the execution from which the judgment debtor is discharged had been returned without his or her being taken. In an action to recover a sum of money for wages earned only by a domestic servant, or a common or unskilled laborer, as aforesaid, the plaintiff, if entitled to costs, shall recover the sum of five dollars as costs in addition to the costs allowed by section five hundred and forty-one of this act, but to entitle the plaintiff to the benefits of this section it must appear upon the face of the complaint, or affirmative proof must be made, that the plaintiff

has made a personal, just and reasonable demand for the amount claimed from the defendant, prior to the commencement of such action; and in a case for common or unskilled labor that such family, dependent upon the plaintiff for support, resides within the state of New York, and that such labor was performed within the city of Buffalo. When the employee is the plaintiff in the action she or he is entitled, upon a settlement thereof, to the full amount of costs which she or he would have recovered if the judgment had been rendered in her or his favor for the sum received by her or him upon the settlement. Where a complaint is served with the summons in such action, and the name of the attorney for the plaintiff is subscribed to such complaint, a lien for the said amount of costs shall immediately accrue in favor of said attorney, and no settlement between the parties to such action shall defeat his right thereto; and the said attorney shall, upon proof of a settlement beneficial to the plaintiff, be entitled to judgment in said action for said costs and shall have the same rights for the enforcement and collection thereof as hereinbefore specified. The above provisions in regard to an action brought by a domestic servant shall also apply in an action brought by any female for work done by her, whether the same be done by her in her own home or in the house, place of business or shop of her employer, and shall likewise apply to any and all mechanics having a family dependent upon them for support, as aforesaid.

§ 543. **Clerks; duties of.**—The court shall have a clerk, one deputy clerk, one process clerk acting as cashier, one calendar clerk, one record clerk and such other clerks as the common council of the city of Buffalo may deem necessary. Such clerks to be appointed by the judges or a majority of them. The salaries of such clerks shall be fixed by the common council. Such appointments to be in writing and filed with the clerk of Erie county. The clerk, deputy clerk and special deputy and other clerks shall take the usual oath of office, and shall file the same with the county clerk, and shall hold office during the pleasure of the judges. Each clerk shall give bond for the faithful performance of his duties, in such form and for such sum and with such sureties as shall be approved by the judges, and file the same with the treasurer of the city. It shall be the duty of the clerk, or in case of sickness, inability or absence on his part, of any of the other clerks, to call the calendar of actions and proceedings pending in said court, and such clerk calling such cal-

endar shall have power to enter judgment for plaintiff by default in an action wherein the court is empowered to render judgment without proof as provided in section five hundred and twenty-nine of this act and a final order in a summary proceeding upon default and a judgment or order of dismissal in any action or proceeding in case of default by the plaintiff or petitioner and said clerk shall have power to administer the necessary oath and take proof upon defendant's default in other actions, and shall have power to adjourn any inquest and he shall likewise have power to adjourn any action or proceeding after joinder of issue where both parties consent to such adjournment, but if any objection is made to such adjournment or as to the sufficiency of the process or pleading the clerk shall direct the parties to appear before one of the judges of the court, who shall hear and determine the objection. It shall be the duty of the clerks to keep in the docket of the court a complete and accurate record of all processes issued and the return thereon to the court, of all the proceedings in any action or proceeding brought in the court, of all moneys paid into court, or received by them; to keep the seal of the court, and to affix it to the certificate of the transcript of the docket of a judgment, or to any other certificate when required so to do; to file papers so delivered to him for that purpose in any action or proceeding and safely keep them; to authenticate by a certificate of exemplification, as may be required, the records of proceedings of the court, or any other paper appertaining thereto filed with him, and to enter in said docket the judgment and decision of said court. The docket shall be evidence in the courts of this state to the same extent as the docket of a justice of the peace. The judges and all clerks of said court shall each have the same power to administer oaths and take acknowledgments as a justice of the peace of towns.

§ 544. **Clerks; duties of, continued.**— In all actions and proceedings brought in this court, the clerks shall keep an accurate minute of the fees provided for by section five hundred and fifty-three of this act, upon the docket of the court at the time of receiving the same. It shall be the duty of said clerk to pay over the amount thereof and to file a statement of the items of said fees with such officers of the city of Buffalo, at such times and in such manner as the common council of said city shall by ordinance prescribe. And such clerks shall also keep such blanks as may be necessary for keeping the records of the

business of said court, and such records shall be kept in such manner as the common council shall by ordinance prescribe, but the duties of said clerks shall continue to be discharged in the manner now prescribed by the charter until such time as the common council shall duly enact ordinances prescribing the manner in which said duties shall be performed. The salary of such clerks shall not be paid until they have accounted for such fees as prescribed by ordinance and neither of them shall perform any service for any party except the city until he shall have received the legal fees therefor as fixed by this act.

§ 545. **Stenographers; appointment, duties.**— Each judge may appoint and at pleasure remove a clerk who shall be a stenographer. The judge making such appointment shall file a certificate of every appointment or removal made by him in the office of the city clerk. Before entering upon the duties of his office, each clerk and stenographer shall take and subscribe the constitutional oath of office and file the same in the office of the city clerk. It shall be the duty of each clerk and stenographer to act as secretary to the judge appointing him, perform such other duties of a confidential nature as he may be directed to perform by said judge and also to act as official stenographer to the court and to take stenographic minutes of the testimony and other proceedings in all cases tried before the court, except where the judge sitting at the trial shall dispense with such services. Each clerk and stenographer shall preserve the original minutes taken by him in every case, and upon the order of the court file the same with the clerk of this court. Each clerk and stenographer shall deliver to his successor in office all the minutes taken by him which shall not have been filed with the clerk, and shall act in all matters connected with his office in accordance with the directions of the judge appointing him. Each clerk and stenographer may furnish to any one applying therefor, a transcript of said minutes and may charge and receive therefor from the person to whom he shall furnish the same the sum of five cents for each folio of one hundred words contained in such transcript.

§ 546. **List of jurors; how selected.**—A list of trial jurors for the court must be selected by the commissioner of jurors for the county of Erie, and must consist of one thousand persons qualified to serve. A person shall not be placed upon such jury list who does not reside or have a place where he regularly transacts busi-

ness in person within the city of Buffalo. The said commissioner of jurors shall, on or before the first Monday in September of each and every year, furnish the clerk of the court with such list, together with the residences and occupations of the persons so selected by him. The clerk of the court shall write on separate slips of paper the name of each juror upon such list, and shall place the slips in a box to be called the undrawn jury box. The contents of the drawn and undrawn jury boxes may be at any time inspected by the commissioner of jurors, or his deputy. Each juror shall be paid two dollars for each and every day or portion thereof that he actually serves upon jury. Such payment shall be made only upon the certificate of the judge presiding at the trial of the number of days served, and the amount due such juror, and shall be made by the clerk of said court out of the fund paid for jury trials into said court so long as sufficient.

§ 547. **Jury; how drawn.**— The clerk, in each action or special proceeding, in which a jury trial is to be had, must publicly and in the presence of one of the judges of the court draw the names of twelve persons from the undrawn jury box, and deliver the list thereof to a marshal, or a person deputed by the court for that purpose, with a written or printed notice, directed to each person named in the list, requiring him to attend as directed as a juror, at the time specified therein, which shall not be sooner than two days after service, out of which number six of the persons attending shall be drawn to try the cause, provided that number appear. In case a jury of twelve shall have been demanded, the clerk shall in like manner draw the names of not less than twenty-four persons, or a greater number, as directed by the court, who shall be summoned in like manner, and twelve of such number shall be drawn to try the cause. Either party shall have the same number of peremptory challenges allowed in a court of record if the jury consists of twelve men.

§ 548. **Jury; how summoned.**— The marshal, or the person deputed, as provided in this act, must thereupon immediately summon each person named in the list, by giving him the sum of ten cents and the notice above mentioned personally, or by leaving it at his place of residence or business, with some person of suitable age and discretion, and must return the list to the court, at its opening, on the day for which the jury was drawn, specify-

ing the persons summoned, and the manner in which each was notified. If a sufficient number of competent and indifferent jurors do not attend, the court must direct to be summoned from the said list so furnished by the commissioner of jurors a sufficient number to complete the jury, by a marshal or a person deputed for that purpose. The ballots containing the names of the jurors summoned and not drawn, or excused from serving must be returned by the clerk to the undrawn jury box, to be drawn as in the first instance. The ballots containing the names of the jurors who served must be placed in a box to be called the drawn jury box, containing a minute thereon of the date of their service, and left until all the other names have been drawn, and as often as that happens, the whole number must be returned to the undrawn jury box, as in the first instance. Any judge presiding in said court may impose a fine of twenty-five dollars upon each person duly drawn and notified to attend the court as trial juror, who fails to attend as required by the notice. The clerk of the court must, within ten days thereafter, issue a warrant under the seal of the court, directed to a marshal of said court, commanding him to collect from the person therein mentioned said sum and to pay over the same when collected to the treasurer of the city of Buffalo. The marshal shall execute such warrant in the same manner as provided by section two thousand two hundred and ninety-six of the code of civil procedure. A clerk who violates any one of the provisions of this section or of the two next preceding sections forfeits one hundred dollars for each offense, to be paid to said treasurer of the city of Buffalo.

§ 549. **Appointment of marshals.**— The judges of said court shall, within ten days after this act takes effect, and thereafter annually on or before the tenth day of January, appoint such a number of marshals of the city of Buffalo from the qualified electors of said city as, in their judgment, shall be necessary to perform the services heretofore performed by constables of said court. Said marshals shall receive the same fees and possess all the powers and authority heretofore vested in the constables of said court, except as otherwise provided by this act. The marshals shall serve and execute all the process of said court, except as provided in section five hundred and nineteen of this act. Such appointments of marshals shall be made equally from the two political parties polling the highest and second highest number of votes at the last municipal election in the city of Buffalo, and said

judges, or a majority of them, may, at any time, remove any of such appointees at pleasure and appoint another in his place.

§ 550. **Bond to be executed by; not to appear, et cetera.**— Each marshal shall, before entering upon the discharge of his duties, execute a bond with two sufficient sureties, who shall be residents of and own real estate within the city of Buffalo, to the amount of double the penalty of the bond, to the city of Buffalo, in the penal sum of two thousand dollars, jointly and severally to answer to the city of Buffalo, and any parties who may be aggrieved, conditioned that said marshal shall well and faithfully execute the duties of said office of marshal, without fraud, deceit or oppression, and shall duly account to the persons entitled thereto for all money and property which shall come into his hands from any execution of process of said court. The judges of the municipal court, when satisfied as to the form of the bond, and sufficiency of the sureties, shall approve the same, and when so approved, it shall be filed in the office of the city clerk of the city of Buffalo. A surety company authorized by the code of civil procedure to execute bonds in actions or proceedings in the supreme court may execute the bond required by this section. A marshal of the city of Buffalo shall not appear or act on behalf of any party in an action or proceeding in said municipal court.

§ 551. **Execution.**— Execution may be issued on a judgment heretofore or hereafter rendered at any time within five years after the rendition thereof, and shall be returned within sixty days after it is issued. If the judgment be docketed with the county clerk the execution shall be issued by him to the sheriff of the county, and have the same effect and be executed in the same manner as other executions and judgments of the county court.

§ 552. **Appeals.**—Appeals may be had from judgments of said court, to the supreme court, Erie county, upon questions of fact or of law in the same manner and with like effect as appeals are now had by law to the county court from justices' court judgments, but nothing herein contained shall grant the right to a new trial except that in an action where the sum for which judgment is demanded by either party in his pleadings exceeds two hundred and fifty dollars, or where in an action to recover a chattel the value of the property as fixed in the judgment together with the damages recovered, if any, exceeds the sum of two hundred and fifty dollars, the appellant may in his notice of appeal demand a new trial in the appellate court and thereupon

he shall be entitled thereto. The supreme court upon appeal may order a new trial in the municipal court for cause shown. Appeals may also be had from final orders and orders affecting a substantial right. Appeal may be taken from the judgment of the supreme court to the appellate division. The judgment appealed from may be set aside by the appellate court, or proceedings thereunder be stayed and an order granted directing a new trial before the municipal court at a time specified in said order and upon such terms as it deems proper.

§ 553. **Fees.**— In all actions and proceedings brought in said court, there shall be paid to the clerk thereof the following fees: For the issuing of a summons in an action, for twenty-five dollars or under, twenty-five cents. In an action for more than twenty-five dollars and less than fifty dollars, fifty cents. In an action for fifty dollars and more but less than five hundred dollars, one dollar. In an action for five hundred dollars and more but less than seven hundred and fifty dollars, two dollars. In an action for seven hundred and fifty dollars and more, three dollars. For issuing a precept in a proceeding for the removal of a tenant, a writ of replevin, writ of attachment or an order of arrest, fifty cents. For issuing a commission, twenty-five cents. Upon demand of a trial by jury, five dollars except as otherwise provided in this act. For the trial of an issue of fact or law, fifty cents, and where the trial shall take more than one day, twenty-five cents additional for each day occupied. For making a return upon appeal, the sum of two dollars. Where it shall be necessary upon appeal to make return of the evidence taken upon the trial, the sum of five cents for each folio of one hundred words, in excess of fifty dollars to be paid in advance to the stenographer reporting and transcribing same.

§ 554. **Justice court act; when to apply.**— The justice court act, as now contained in the code of civil procedure, and as amended hereafter, shall apply in all cases of attachment, arrest, replevin and to all forms of actions, remedies, parties to action, rules of evidence, pleadings, practice, trial by court or jury, judgment by action or confession and all proceedings thereupon, except as otherwise provided in this act.

§ 2. Title twenty-two of said act, consisting of sections four hundred and fifty-one to four hundred and seventy-three, both inclusive, and all acts amendatory thereof, are hereby repealed.

§ 3. This act shall take effect immediately.

Chap. 388.

AN ACT to legalize certain acts of the voters of the village of Waddington in Saint Lawrence county and certain proceedings incidental thereto, in relation to borrowing money, and to provide for the issue and payment of village bonds therefor.

Became a law, May 19, 1908, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The action of the voters of the village of Waddington in the county of Saint Lawrence, at the annual village election held on the seventeenth day of March, nineteen hundred and eight, in adopting the following resolution, to wit: "Shall the corporation of Waddington borrow the sum of eight thousand dollars for the purpose of constructing cement sidewalks in said village and reimbursing those who have already laid them; said sum payable in sixteen annual installments of five hundred dollars each," is hereby in all things legalized, ratified and confirmed, together with all proceedings relating to the submission of such proposition, and shall be given full effect according to the terms of such proposition, notwithstanding any omission, defect or irregularity in such proceedings or action, as prescribed by the village law or by any other law applicable to such village, and notwithstanding any omission, defect or irregularity in the proceedings by which such village was theretofore reorganized as a village under general laws or any loss of or failure to file a record of such reorganization; and such action shall be deemed and held to have the effect of authorizing, and this act hereby authorizes the board of trustees of such village, as such board is now constituted or as its members or their successors shall continue to be chosen and constitute such board, pursuant to the provisions of the village law, to issue the bonds of said village for the aggregate* sum thus voted, in such denominations as to make a bond or bonds representing the installments mentioned in said proposition mature annually, beginning within five years from date of issue, which bonds shall bear interest at the rate of not to exceed five per centum per annum and shall be executed in manner and form and shall be sold as provided in section one hundred and twenty-nine of the village law. The avails of such bonds shall

* So in original.

be applied to the objects indicated in said proposition, and the said board of trustees of said village shall include in each annual village tax levy, in addition to other moneys authorized to be raised thereby, a sum equal to the amount of any bond or bonds maturing in each such year, together with annual interest due or about to become due on unpaid bonds, which sums shall be applied to the payment of such maturing bonds and interest.

§ 2. Nothing herein contained shall apply to or affect any pending action or proceeding, in law or in equity.

§ 3. This act shall take effect immediately.

Chap. 389.

AN ACT to amend chapter one hundred and twenty-eight of the laws of eighteen hundred and ninety-two, entitled "An act to provide for a village hall in the village of Saratoga Springs."

Became a law, May 19, 1908, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section six of chapter one hundred and twenty-eight of the laws of eighteen hundred and ninety-two, entitled "An act to provide for a village hall in the village of Saratoga Springs," as amended by chapter seven hundred and twenty-two of the laws of nineteen hundred, is hereby amended to read as follows:

§ 6. As soon as the building shall be completed the care and control of the property shall devolve on the board of trustees of the village of Saratoga Springs. They shall have power to set apart such portions as may be necessary for village purposes, and may rent any part not immediately required for village purposes and the rents thereof shall be paid to the receiver of taxes and applied, (after the claims therefor shall have been duly verified, certified and audited in the same manner as other claims against the village) to the expenses of taking care of the property and lighting and warming and keeping the building insured and property repaired. If the annual receipts shall be insufficient to pay for the expenses of caring for the property, warming, lighting, insuring and repairing the building and pay-

ing the interest on the bonds aforesaid, together with the principal when it shall become due, the said board shall cause the amount thus required to be levied and collected out of the taxable property of the said village of Saratoga Springs and paid over to the receiver of taxes for the purposes aforesaid, at the same time and in the same manner as other village taxes. Upon the passage of this act the president of the village of Saratoga Springs shall appoint a commission composed of five residents and taxpayers of the said village, which shall be known as the publicity commission. Each commissioner before entering upon the duties of his office shall take and subscribe the usual oath of office and file the same with the clerk of the said village, and shall give a bond for the faithful performance of his duties in the sum of five hundred dollars, with such surety as shall be approved by such president. The said commissioners shall hold office until the moneys hereby raised shall be fully expended, vacancies occurring being filled by the village president. The said commissioners shall designate one of their number as president who shall preside at their meetings when present, and a majority of the commissioners shall constitute a quorum. The said commissioners shall serve without compensation, but shall be allowed their personal expenses incurred in the performance of their duties. The trustees of the said village shall have power to remove any commissioner upon proof, for official misconduct, and after furnishing him with a copy of the charges preferred and giving him an opportunity for defense. It shall require the vote of a majority of all the trustees to remove a commissioner. The said commissioners shall cause to be kept a full record of all their acts and proceedings, which shall always be open to the inspection of the taxpayers of the said village. It shall be the duty of the said commissioners on or before the first day of March in each year, after the passage of this act, to report in writing to the board of trustees the amount expended by them during the preceding year with the items thereof. The said commissioners, on or before the first day of May in each year, after the passage of this act, are authorized and empowered to report to the board of trustees of the said village an estimate of the amount required by them to carry out the purpose of this act for the ensuing year, not exceeding the sum of ten thousand dollars in any one year for five years commencing with the first tax levy succeeding the passage of this act, which sum so reported

shall be levied and collected by the said board of trustees out of the taxable property of the said village and paid over to the receiver of taxes at the same time and in the same manner as other village taxes. The said commissioners shall have the power to expend the said fund in advertising the convention hall of said village and bringing the same to the attention of industries, associations and organizations throughout the country as a place for the holding of meetings and conventions, and in such other advertising as may be for the public benefit and convenience; they may also hire such employees as they deem necessary. A certificate signed by the president and secretary of such commission shall be sufficient evidence of the propriety of any such expenditure and the amount thereof. The said commissioners shall have power to raise by loan, in anticipation of the collection of such taxes, any sum required for the purpose of this act.

§ 2. This act shall take effect immediately.

Chap. 390.

AN ACT to amend chapter three hundred and fifty-seven of the laws of nineteen hundred and five, entitled "An act to revise the several acts relative to the city of Tonawanda," providing a fund to retire city bonds.

Became a law, May 19, 1908, with the approval of the Governor. Passed, three-fifths being present.

Accepted by the City.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision nine of section one of title seventeen of chapter three hundred and fifty-seven of the laws of nineteen hundred and five, as amended by chapter four hundred and ten of the laws of nineteen hundred and six and chapter five hundred and forty of the laws of nineteen hundred and seven, is hereby amended to read as follows:

Subdivision 9. For the purpose of providing for the payment of the principal and interest of existing debts of the city, the common council may also include in the annual tax levy for the years

nineteen hundred and six, nineteen hundred and seven, and nineteen hundred and eight, a sum not exceeding ten thousand dollars in each year and may also include in the annual tax levy for the years nineteen hundred and nine, nineteen hundred and ten, nineteen hundred and eleven, nineteen hundred and twelve, and nineteen hundred and thirteen, a sum not exceeding twenty thousand dollars in each year for the purpose of creating a fund applicable to the payment, at maturity, of the bonded indebtedness of the city or any part thereof. The common council shall also have power to raise by tax as aforesaid, the amount of all judgments recovered against the city and remaining unpaid.

§ 2. This act shall take effect immediately.

Chap. 391.

AN ACT to amend chapter one hundred and six of the laws of eighteen hundred and ninety-one, entitled "An act to revise, consolidate and amend the several acts relating to the village of Mechanicville, and to repeal certain acts," in relation to the eligibility of persons for election to the office of president or trustee of said village.

Became a law, May 19, 1908, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section sixteen of title two of chapter one hundred and six of the laws of eighteen hundred and ninety-one, entitled "An act to revise, consolidate and amend the several acts relating to the village of Mechanicville, and to repeal certain acts," is hereby amended to read as follows:

§ 16. No person shall be eligible for election as president or trustee of said village unless he shall, at the time of his election, be assessed for real property upon the last preceding assessment roll of said village.

§ 2. This act shall take effect immediately.

Chap. 392.

AN ACT to amend the uniform charter of cities of the second class, relative to the place of trial of actions and proceedings.

Became a law, May 20, 1908, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section two hundred and twenty-two of chapter four hundred and seventy-three of the laws of nineteen hundred and six, entitled "An act to provide for the government of cities of the second class," is hereby amended so as to read as follows:

§ 222. **Inhabitants not incompetent; place of trial of actions and proceedings.**— Upon the trial of any issue or the prosecution of any proceeding, or upon the taking or making of any inquisition, appraisal or award, or upon the judicial investigation of any facts whatever, to which issue, proceedings, inquest, investigation or award the city is a party, or in which the city may, in any way, be interested, no person shall be deemed incompetent as a judge, referee, commissioner, witness or juror by reason of his being an inhabitant, freeholder or taxpayer of the city. The place of trial of all actions and proceedings against the city, or any of its officers, boards or departments shall be the county in which the city is situated.

§ 2. This act shall take effect immediately.

Chap. 393.

AN ACT to provide for the election of a justice of the peace in the city of Rome.

Became a law, May 20, 1908, with the approval of the Governor. Passed, three-fifths being present.

Accepted by the City.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. There shall be elected in the city of Rome at the general election to be held in said city in November, nineteen hundred and eight, and every four years thereafter, a justice of

the peace, who shall hold office for a term of four years, beginning on the first day of January following his election.

§ 2. The justice of the peace so elected shall have and keep an office or place for the transaction of his official business within said city, and not elsewhere. He shall have and exercise all the powers, authority and jurisdiction, and discharge all the duties, and be entitled to all the fees and compensation of justices of the peace of the several towns of this state, except that he shall not have jurisdiction of any criminal matter arising within the city of Rome, nor in any action brought to recover a fine, penalty or forfeiture for the violation of any of the provisions of the charter of said city, or the by-laws, ordinances, rules and regulations of said city, or for the recovery of taxes and assessments imposed or assessed pursuant to the charter of said city, unless designated by the mayor to act in place of the city judge, in which case he shall have the same powers and be subjected to the same duties provided in said charter relating to the powers and duties of the city judge. Said justice of the peace shall have the same territorial jurisdiction as justices of the peace of the several towns of this state, and a summons issued by said justice of the peace may be served in any part of Oneida county, and, except as herein otherwise provided, all laws applicable to justices of the peace of the several towns of this state and to their official acts, duties and powers, shall apply to the said justice of the peace. Appeals from any judgment rendered by said justice of the peace may be taken to the county court of Oneida county within the time and in the manner prescribed by law for appeals from judgments rendered by justices of the peace in towns, and all provisions of law relative to appeals from such judgments shall apply to appeals from judgments rendered by any justice of the peace elected under the provisions of this act. Before entering upon the discharge of the duties of his office said justice of the peace shall take and file in the clerk's office of Oneida county the oath of office prescribed by law.

§ 3. Any action or proceeding brought or instituted before said justice of the peace shall, on motion of any defendant to such action or proceeding, be removed to the city court of said city, if such defendant shall at the time of joining issue or before any witness is sworn therein file an affidavit with the said justice that he has a meritorious defense, offset or counterclaim to the plaintiff's cause of action, and pay to said justice the legal fees

for all proceedings had and taken in said action or proceeding up to the time of filing such affidavit. The said justice of the peace shall thereupon and within twenty-four hours after the filing of said affidavit and payment of costs, as aforesaid, return to the said city court all papers and proceedings made, had and taken before him in said action or proceeding, and said action shall thereafter proceed and be determined in said city court in the same manner and with the same effect as if originally instituted therein, and issue in said action or proceeding shall be deemed to have been joined in said city court as of the day the original process in such action or proceeding was made returnable before the said justice of the peace. Any justice of the peace failing to certify and return to the said city court all papers and proceedings made, had and taken in an action or proceeding brought before him and removed to said city court, as herein provided, shall, upon conviction thereof, be deemed guilty of a misdemeanor and forfeit his office.

§ 4. Nothing herein contained shall be construed as limiting, changing, modifying, abrogating or repealing any of the powers and duties conferred upon the city court of the city of Rome or the city judge by the charter of said city of Rome, and all of the provisions of said charter relating to said city court and said city judge shall be and remain unimpaired.

§ 5 This act shall take effect immediately.

Chap. 394.

AN ACT to reappropriate the unexpended balance of the appropriation made by chapter six hundred and seventy-five of the laws of nineteen hundred and six for the reconstruction of the west wing of the coffer dam at the outlet of Skaneateles lake, in the county of Onondaga, and making an additional appropriation for the same purpose.

Became a law, May 20, 1908, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The sum of nine thousand eight hundred and ninety-five dollars, being the unexpended balance of the appropriation

made by chapter six hundred and seventy-five of the laws of nineteen hundred and six for the reconstruction of the west wing of the coffer dam at the outlet of Skaneateles lake, in the county of Onondaga, is hereby reappropriated for the same objects and purposes; the work to be done on plans amended pursuant to the provisions of chapter four hundred of the laws of nineteen hundred and seven; and in addition thereto there is hereby appropriated out of any moneys in the treasury not otherwise appropriated, the sum of five thousand dollars for the same objects and purposes.

§ 2. This act shall take effect immediately.

Chap. 395.

AN ACT to amend the lien law, relative to liens of manufacturers and throwsters of goods.

Became a law, May 20, 1908, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Chapter four hundred and eighteen of the laws of eighteen hundred and ninety-seven, entitled "An act in relation to liens, constituting chapter forty-nine of the general laws," is hereby amended by adding a new section after section seventy-four, to be section seventy-five thereof, to read as follows:

§ 75. **Lien of manufacturers and throwsters of silk goods.**—All persons or corporations engaged in the business of manufacturing, spinning or throwing silk into yarn or other goods, shall be entitled to a lien upon the goods and property of others in their possession for the amount of any account that may be due them, from the owners of such silk, by reason of any work and labor performed, and materials furnished in or about the manufacturing, spinning or throwing of the same, or other goods, of such owner or owners. Such lien shall not be waived or impaired by the taking of any note or notes for the moneys so due, or for the work and labor performed and materials furnished.

§ 2. This act shall take effect immediately.

Chap. 396.

AN ACT to amend the public health law, in relation to infectious and contagious or communicable diseases.

Became a law, May 20, 1908, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section twenty-four of article two of the public health law is hereby amended to read as follows:

§ 24. **Infectious and contagious or communicable diseases.**— Every such local board of health shall guard against the introduction of such infectious and contagious or communicable diseases as are designated by the state department of health, by the exercise of proper and vigilant medical inspection and control of all persons and things infected with or exposed to such diseases, and provide suitable places for the treatment and care of sick persons who cannot otherwise be provided for. It shall prohibit and prevent all intercourse and communication with or use of infected premises, places and things, and require, and if necessary, provide the means for the thorough purification and cleansing of the same before general intercourse with the same or use thereof shall be allowed. Every physician shall immediately give notice of every case of infectious and contagious or communicable disease required by the state department of health to be reported to it, to the health officer of the city, town or village where such disease occurs, and no physician being in attendance on such case, it shall be the duty of the superintendent or other officer of an institution, householder, hotel or lodging house keeper, or other person where such case occurs, to give such notice. The physician or other person giving such notice shall be entitled to the sum of twenty-five cents therefor, which shall be a charge upon and paid by the municipality where such case occurs. Every such local board of health shall report to the state department of health, promptly, the facts relating to infectious and contagious or communicable diseases, and every case of smallpox or varioloid within the municipality. Health

officers of cities, villages and towns shall report in writing once a month to the state department of health all cases of such infectious and contagious or communicable diseases as may be required by the state department of health, and for such reporting the health officer of a village or town shall be paid by the municipality employing him, upon the certification of the state department of health, a sum not to exceed twenty cents for each case so reported. The reports of cases of tuberculosis made pursuant to the provisions of this section shall not be divulged or made public so as to disclose the identity of the persons to whom they relate, by any person; except in so far as may be necessary to carry out the provisions of this act. It shall provide at stated intervals, a suitable supply of vaccine virus, of a quality and from a source approved by the state department of health, and during an actual epidemic of smallpox obtain fresh supplies of such virus at intervals not exceeding one week, and at all times provide thorough and safe vaccination for all persons in need of the same. If a pestilential, infectious or contagious disease exists in any county almshouse or its vicinity, and the physician thereof shall certify that such disease is likely to endanger the health of its inmates, the county superintendent of the poor may cause such inmates or any of them to be removed to such other suitable place in the county as the local board of health of the municipality where the almshouse is situated may designate, there to be maintained and provided for at the expense of the county, with all necessary medical care and attendance until they shall be safely returned to such almshouse or otherwise discharged. This act shall apply to all cities, towns and villages, except cities of the first class, notwithstanding the provisions of section thirty-two of this article. The health officer, commissioner of health, or boards of health of the cities of the first class shall report promptly to the state department of health all cases of smallpox, typhus and yellow fever and cholera and the facts relating thereto.

§ 2. This act shall take effect immediately.

Chap. 397.

AN ACT to amend chapter three hundred and fifty-six of the laws of nineteen hundred, entitled "An act to authorize the supervisor of the town of Fallsburgh, county of Sullivan, New York, as railroad commissioner to issue bonds to retire outstanding bonds as they become due," by increasing the authorized rate of interest of such bonds.

Became a law, May 20, 1908, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section one of chapter three hundred and fifty-six of the laws of nineteen hundred, entitled "An act to authorize the supervisor of the town of Fallsburgh, county of Sullivan, New York, as railroad commissioner to issue bonds to retire outstanding bonds as they become due," is hereby amended to read as follows:

§ 1. The supervisor of the town of Fallsburgh, county of Sullivan, as railroad commissioner of such town is hereby authorized to issue bonds bearing interest at a rate not exceeding five per centum per annum to pay and retire outstanding bonds of said town of Fallsburgh as they become due. Such bonds shall not be sold for less than par and shall become due within twenty years from their date of issue.

§ 2. This act shall take effect immediately.

Chap. 398.

AN ACT providing for the payment of certain notes and indebtedness of the town of Hoosick, county of Rensselaer, and authorizing the issue of town bonds for such purposes.

Became a law, May 20, 1908, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The town board of the town of Hoosick, county of Rensselaer, is hereby authorized to borrow money upon the faith

and credit of the town, for the purpose of paying certain notes of such town, issued and executed by the supervisor under authority of the town board thereof during the years nineteen hundred and six and nineteen hundred and seven, in payment of the cost and expenses of the erection and repair of highways and bridges and of other town expenses of such town, together with the accrued interest on such notes, from their date of issue. The town board of such town may issue bonds for the money so borrowed in a sum not exceeding fourteen thousand dollars. Such bonds shall be signed by the supervisor and attested by the town clerk. They shall be made payable in not more than seven equal annual instalments, the first of which shall become payable within two years from the date of the issue of such bonds. They shall bear interest at a rate not exceeding five per centum per annum, and shall be sold for not less than their par value. They shall be sold on sealed proposals, or at public auction, upon notice published at least once in two consecutive weeks in two or more newspapers in the county of Rensselaer, to be designated by the town board, to the person who will take them at the lowest rate of interest. Such bonds shall be consecutively numbered from one to the highest number issued, and the town clerk shall keep a record of the number of each bond, its date, amount, rate of interest, when and where payable, and the purchaser thereof or the person to whom they are issued. The proceeds of the sale of such bonds shall be expended in paying the notes and indebtedness of such town as above specified, on the order of the town board. Such bonds shall contain a recital that they are issued in conformity with the provisions of this act, which recital shall be consecutive* evidence of their validity and of the regularity of their issue.

§ 2. The board of supervisors of the county of Rensselaer shall cause an amount to be levied and assessed upon such town, in the same proportion as the amounts of said notes bear to highway and bridge disbursements, in the same manner as in the case of other town charges and expenses, sufficient to pay the principal and interest on such bonds as they fall due. No assessment or tax made or levied to raise money for the payment of such bonds and interest, nor the bonds themselves shall be in any manner impaired, or rendered illegal, invalid or uncollectible, because of any omission, default or irregularity in respect to the issue and execution of the notes, or the contracting of the indebted-

*So in original.

ness, for the payment of which such bonds are hereby authorized to be issued.

§ 3. Nothing in this act shall affect any action or proceeding now pending in any court.

§ 4. This act shall take effect immediately.

Chap. 399.

AN ACT vesting the care and custody of "Spy Island" in the town of Mexico, Oswego county, in Silas Town Chapter, Daughters of the American Revolution.

Became a law, May 20, 1908, with the approval of the Governor. Passed, by a two-thirds vote.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The care and custody of the island known as "Spy Island," located at the mouth of Little Salmon river, in the town of Mexico, Oswego county, the title to which was heretofore acquired by the state in pursuance of chapter six hundred of the laws of nineteen hundred and three, are hereby vested in Silas Town Chapter, Daughters of the American Revolution, of Mexico, New York, and such chapter is hereby authorized and empowered to adopt and execute such plans, and make such rules and regulations for preserving, beautifying and regulating the use of such island as may be necessary, but without expense to the state.

§ 2. This act shall take effect immediately.

Chap. 400.

AN ACT authorizing the city of New York to take and improve lands for park purposes in the second and fourth wards of the borough of Queens in said city.

Became a law, May 20, 1908, with the approval of the Governor. Passed, three-fifths being present.

Accepted by the City.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The city of New York is hereby authorized to take by grant, gift, devise or condemnation such lands in the second

and fourth wards of the borough of Queens in said city as may be selected by the park board of said city and approved by the board of estimate and apportionment of said city, for the purpose of regulating the boundary lines or parts thereof of Forest park in said borough and laying out and constructing a marginal parkway or parkways along or upon the exterior boundary or boundaries of said park, which parkway or parkways may be laid out and constructed over and upon lands donated or to be donated or otherwise acquired for that purpose or over and upon lands lying within the present area of said park or in part over lands so acquired and in part over such present park lands.

§ 2. Such land so acquired and such parkway or parkways shall be and remain under the control and management of the park department of said city and shall be maintained and improved as part of the existing system of parks and parkways in said city.

§ 3. This act shall take effect immediately.

Chap. 401.

AN ACT authorizing the board of estimate and apportionment of the city of New York to provide for the improvement as a children's playground of certain real property of the city in the borough of Queens.

Became a law, May 20, 1908, with the approval of the Governor. Passed, three-fifths being present.

Accepted by the City.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The board of estimate and apportionment of the city of New York may authorize the department of parks to develop into a children's playground that portion of real property owned by the city of New York situated on the old country road opposite Franklin avenue adjoining the public school number thirty-four, in the former village of Queens, fourth ward, borough of Queens, consisting of about two and one-quarter acres, which prior to eighteen hundred and eighty was used by the authorities of the town of Jamaica as a paupers' burial ground. Such

work shall be done under such restrictions and subject to such conditions in relation to the removal of bodies in such burial ground, or otherwise, as the board of estimate and apportionment shall prescribe. The board may appropriate the sum of not more than five thousand dollars for the purpose of improving such real property and may direct the comptroller to issue revenue bonds for the amount of such appropriation.

§ 2. This act shall take effect immediately.

Chap. 402.

AN ACT to authorize and empower the park board and the commissioners of parks for the boroughs of Manhattan and Richmond, of the city of New York, to erect and build an escalator in Morningside park, at or near West One Hundred and Sixteenth street, and providing the necessary funds therefor.

Became a law, May 20, 1908, with the approval of the Governor. Passed, three-fifths being present.

Accepted by the City.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The commissioner of parks for the boroughs of Manhattan and Richmond, is hereby authorized and empowered, with the consent of the board of estimate and apportionment of the city of New York to erect in accordance with a plan or plans to be approved by the said commissioner an escalator, or other mechanical device for the carrying of persons under such rules and regulations as may be hereafter adopted by the department of parks over and across Morningside park, in the said city, at or near the intersection of West One Hundred and Sixteenth street, between Morningside avenue east and Morningside avenue west, borough of Manhattan.

§ 2. Upon the approval of a plan or plans as hereinbefore provided, the said commissioner may advertise for, and receive bids for the erection of the said structure, and award any contract or contracts for the erection of the same, in the same manner as other contracts are awarded, by the department of parks.

§ 3. The board of estimate and apportionment, of the city of New York, is hereby authorized and empowered to provide

the necessary funds to meet the entire cost of the said structure, in such manner as funds are provided generally for improvements under the control of the said department.

§ 4. This act shall take effect immediately.

Chap. 403.

AN ACT to amend chapter four hundred and twenty-five of the laws of nineteen hundred and three, entitled "An act to provide for further regulation of the terminals and approaches thereto of the New York and Harlem railroad at and north of Forty-second street in the city of New York and of the public highway structures over said terminals and approaches and of the motive power to be used on said railroad."

Became a law, May 20, 1908, with the approval of the Governor. Passed, three-fifths being present.

Accepted by the City.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Chapter four hundred and twenty-five of the laws of nineteen hundred and three, entitled "An act to provide for further regulation of the terminals and approaches thereto of the New York and Harlem railroad at and north of Forty-second street in the city of New York and of the public highway structures over said terminals and approaches and of the motive power to be used on said railroad," is hereby amended by inserting therein between section three and section four thereof a new section, to be section three-a thereof, to read as follows:

§ 3-a. The said board of estimate and apportionment of the city of New York may at any time, and from time to time, upon reasonable cause shown, extend the time for the completion of the work of depressing the said tracks and constructing the viaducts or bridges provided for in this act, or in any amendment of this act, or in any agreement or agreements executed pursuant to the provisions of this act or of any amendment thereof; any such extension of time, however, shall not be for a longer period than eighteen months and shall not become effective until approved by the public service commission of the first district.

§ 2. This act shall take effect immediately.

Chap. 404.

AN ACT to amend chapter one hundred and thirty-three of the laws of eighteen hundred and forty-seven, entitled "An act authorizing the incorporation of rural cemetery associations," in relation to thoroughfares of the city of New York.

Became a law, May 20, 1908, with the approval of the Governor. Passed, three-fifths being present.

Accepted by the City.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section ten of chapter one hundred and thirty-three of the laws of eighteen hundred and forty-seven, entitled "An act authorizing the incorporation of rural cemetery associations," as amended by chapter seven hundred and eight of the laws of eighteen hundred and sixty-nine, chapter thirty-one of the laws of eighteen hundred and seventy-seven and chapter two hundred and thirty-seven of the laws of nineteen hundred and four, is hereby amended to read as follows:

§ 10. The cemetery lands and property of any association formed pursuant to this act, and any property held in trust by it for any of the purposes mentioned in section nine of this act, shall be exempt from all public taxes, rates and assessments, and shall not be liable to be sold on execution, or be applied in payment of debts due from any individual proprietor. But the proprietors of lots or plots in such cemeteries, their heirs or devisees, may hold the same exempt therefrom, so long as the same shall remain dedicated to the purposes of a cemetery, and during that time no street, road, avenue or public thoroughfare shall be laid out through such cemetery, or any part of the lands held by such association for the purposes aforesaid, without the consent of the trustees of such association, and of two-thirds of the lot owners thereof and then only by special permission of the legislature of the state. But notwithstanding anything herein contained, the city of New York may, according to the provisions of the Greater New York charter, lay out, open and construct a street, road, avenue or parkway, not exceeding one hundred and fifty feet in

width, from the present easterly terminus of the Eastern parkway, in the borough of Brooklyn, city of New York, to the westerly boundary or side of Forest park, in the borough of Queens, city of New York, through, over and across any lands of a cemetery association situated between said Eastern parkway and said Forest park, without the consent of the trustees of said association or of such lot owners, provided that such street opening shall be made in such a manner and by such a course as to avoid as far as possible the removal of bodies interred in the lands of such cemetery association prior to the first day of April, in the year nineteen hundred and six. It is provided, however, that the trustees of any cemetery through which said street, road, avenue or parkway is permitted to be constructed, shall be consulted as to the direction or course of the portion thereof which may be laid out through said cemetery lands; and it is further provided that the cemetery association may in its discretion build bridges over or tunnel under said street, road, avenue or parkway in order to facilitate cemetery purposes and may erect entrance ways for ingress to or egress from cemetery grounds; that funeral processions may be allowed to pass over the said street, road, avenue or parkway to and from the cemetery from all directions and that any damage sustained by individual lot owners or by the cemetery association shall be allowed and paid by the city. And this act shall be deemed a special permission of the legislature to the city of New York.

§ 2. Within one year after this act takes effect, the engineer of the board of estimate and apportionment of the city of New York shall make surveys and prepare a map showing the exact location and course of the said street, road, avenue or parkway, which map shall as soon as practicable be approved by the board of estimate and apportionment, and a correct copy thereof so approved shall be furnished by the said engineer to the board of trustees of any cemetery affected thereby.

§ 3. This act shall take effect immediately.

Chap. 405.

AN ACT to legalize the bonds of union free school district number seven, of the town of Corinth, Saratoga county, New York, in the amount of thirty thousand dollars, sold or to be sold for the purpose of defraying the expense of building two new schoolhouses in said district; and to provide for the payment of said bonds.

Became a law, May 20, 1908, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The proceedings of the qualified voters of union free school district number seven, of the town of Corinth, Saratoga county, New York, and of the trustees or board of education of said district, their officers and agents, during the year nineteen hundred and eight, relative to the voting of a tax of thirty thousand dollars upon the taxable property of said district, to be collected in installments, for the purpose of building two new schoolhouses therein, and in the sale and issuance of the bonds of said district to the amount of thirty thousand dollars, in anticipation of the collection of the installments of such tax, are hereby legalized, ratified and confirmed, notwithstanding the omission of any lawful requirement in such proceedings.

§ 2. The said bonds so sold or to be sold and directed to be issued by such proceedings, consisting of thirty bonds of the denomination of one thousand dollars each, dated the first day of May, nineteen hundred and eight, and payable two bonds on the first day of November, nineteen hundred and fifteen, and two bonds on the first day of November annually thereafter until all of said bonds are fully paid, with interest thereon at the rate of five per centum per annum, payable annually, are hereby legalized, and declared to be valid and subsisting obligations of said school district.

§ 3. The board of education of said school district, in the manner provided by law, shall cause such sums to be raised annually by tax, as may be necessary to pay the interest and the principal of said bonds as the same shall become due.

§ 4. This act shall take effect immediately, but shall not affect any action or proceeding pending in any court at the time it takes effect.

Chap. 406.

AN ACT to amend chapter thirty-four of the laws of eighteen hundred and fifty-eight, entitled "An act to make school district number nine in the town of Pomfret a union free school district," in relation to members of the board of education, their election, terms of office and filling vacancies.

Became a law, May 20, 1908, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section three of chapter thirty-four of the laws of eighteen hundred and fifty-eight, entitled "An act to make school district number nine in the town of Pomfret a union free school district," as amended by chapter one hundred and sixty-three of the laws of eighteen hundred and eighty-three, chapter five hundred and twenty-six of the laws of eighteen hundred and ninety-five and chapter one hundred and ten of the laws of nineteen hundred and one, is hereby amended to read as follows:

§ 3. There shall be elected in each year in school district number one of the town of Dunkirk, commencing with nineteen hundred and eight, two members of the board of education, who shall be residents and taxable inhabitants of said district, who shall hold their office for four years, and until their successors are elected and qualify. The said election shall take place at the annual town and city election, when all persons who by law, are entitled to vote for members of the board of education in said district may deposit their ballots, containing the names of two persons designated for said office. The election inspectors of the several polling places in said town of Dunkirk, shall canvass the votes so cast for members of the board of education in the same manner that votes for town officers are canvassed and make their returns of the same to the town board in the same way that returns for town officers are returned; and it shall be the duty of the town board to canvass the several returns so received and to certify to the board of education of said district the names of the two persons receiving the greatest number of votes for members of said board of education, who shall be declared elected as members of the board of education by said town board. No person or persons

shall be permitted to cast a vote for members of said board of education unless they shall have been registered as herein provided. It shall be the duty of the several boards of registration at the annual registration for the city and town election, to properly register in books prepared for that purpose by the clerk of the said town, distinct and separate from those used for registering those who intend to vote for town and city officers, the names of all those who wish to vote for members of said board of education, and who are by law entitled to vote for the same. Said inspectors shall also keep a separate poll-list of all those who vote for members of said board of education, and shall have the same rights, powers and duties in regard to the care of the poll-lists and to those voting for members of said board of education, as to those voting for town or city officers and the poll-lists connected therewith. The persons hereafter elected as members of said board of education shall enter upon the duties of their office on the first Monday of January succeeding their election, which first Monday of January in each year after the passage of this act shall be the day for holding the annual meeting of said board of education. An officer of such board, if still a member of the board, shall hold his office until his successor has been duly elected. Hereafter it shall require a majority of all the members constituting such board of education to elect its officers. Hereafter the board of education of the said school district shall consist of eight members. If the office of a member of such board becomes vacant for any cause, except expiration of term, the remaining members of such board may, by a majority vote appoint a person to fill such vacancy until the next ensuing general election of the town and city of Dunkirk when such vacancy shall be filled for the unexpired term of any such member in the same manner as is herein provided for the election of members of said board of education. Whenever in the opinion of said board of education, it becomes necessary to procure a new site and build a new schoolhouse thereon, it shall call a special meeting of the taxable inhabitants of the district, at which meeting the said board will state the cost of the proposed site and the estimated cost of the school building that is proposed to be erected thereon. If said special meeting approves of the recommendation of the board, said board may purchase the site and build the schoolhouse and necessary outbuildings thereon. Said board of education is hereby

authorized to make such repairs and additions to schoolhouses already built on land owned by said school district, as shall in the judgment of said board be deemed necessary for the school interests of said school district; and for the purpose of paying for such additions or new buildings erected on land owned by said district, said board is hereby authorized to issue bonds or certificates of indebtedness, said bonds or certificates not to be sold for less than par or to draw more than four per centum interest, and made payable at such times as the board of education may deem for the best interests of said district.

§ 2. This act shall take effect immediately.

Chap. 407.

AN ACT to legalize and validate certain acts of the electors of the town of Morristown, Saint Lawrence county, New York, and the acts of the town officers of said town, relative to the raising of a certain sum of money upon the credit of the said town, for the erection of a town hall for said town and the equipment thereof.

Became a law, May 20, 1908, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The acts of the town clerk of the town of Morristown, Saint Lawrence county, in connection with the special town meeting held in said town on the thirty-first day of March, nineteen hundred and eight, at which it was voted that a sum not exceeding ten thousand dollars be appropriated for the purpose of the purchase of a suitable site and the erection thereon and equipment of a town hall, for the use of the town of Morristown, New York, to be located in the village of Morristown, New York; the vote of the electors upon said proposition and all acts in connection therewith, either by the town officers or the electors or the inspectors or canvassers, are and each of them is hereby legalized, validated and made binding upon the town of Morristown, and upon all parties concerned, with the same force and effect as if every provision of the laws of eighteen hundred and

ninety, chapter five hundred and sixty-nine and all amendments thereto and especially as amended by chapter three hundred and sixty-three of the laws of nineteen hundred and seven, and any other provision of the town, county and municipal law relative to the raising of funds upon the credit of municipalities had been fully observed and complied with. That all bonds issued by the town board in pursuance of said determination to so do on the part of the electors of the town of Morristown, New York, in a sum not exceeding ten thousand dollars, shall when issued be legal and valid obligations of the said town of Morristown according to their tenor and purport. This act shall not affect any action or proceeding now pending.

§ 2. This act shall take effect immediately.

Chap. 408.

AN ACT to ratify and confirm the proceedings at a town meeting held in the town of Rye and the adoption thereat of a proposition in favor of acquiring certain lands for a public park, pursuant to chapter seven hundred and eleven of the laws of nineteen hundred and seven.

Became a law, May 20, 1908, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The adoption by ballot at a town meeting in the town of Rye, county of Westchester, on the fifth day of November, nineteen hundred and seven, of the affirmative of the following proposition: "Shall the land in the town of Rye, bounded by Forest avenue, Rye Beach road, Dearborn avenue and the waters of Long Island sound be acquired for public park, pursuant to chapter seven hundred and eleven of the laws of nineteen hundred and seven, entitled 'An act to provide for laying out, constructing and maintaining a public park in the town of Rye, county of Westchester, and for the acquisition of lands and property for that purpose by the said town of Rye, and to provide for the payment thereof,'" is hereby declared to be a complete fulfillment of the requirements of section two of chapter seven hundred and eleven of the laws of nineteen hundred and seven, therein prescribed as

necessary for the condemnation of the property in said act described, and to be a valid adoption of the proposition specified in said section of said act, and the proceedings at said town meeting relating to authorizing the condemnation of said property for a public park are hereby ratified and confirmed and declared to be adequate and complete, and no further action under and pursuant to said section two of said act shall be requisite or necessary in proceedings to acquire the lands described in said act under the provisions thereof.

§ 2. This act shall take effect immediately.

Chap. 409.

AN ACT to legalize and validate all proceedings heretofore had for the issuance and sale of thirty thousand dollars bonds of the board of education of union free school district number twenty-one, of the town of Hempstead, Nassau county, New York; to authorize the execution, issuance and delivery of said bonds; and to authorize the raising of taxes to pay the principal and interest thereof.

Became a law, May 20, 1908, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The adoption of the proposition submitted at a special meeting of the qualified voters of union free school district number twenty-one of the town of Hempstead, Nassau county, New York, held November seventh, one thousand nine hundred and seven, authorizing the erection of an addition to, and the remodeling of, public school number two in said district, located on Clinton avenue, in the village of Rockville Centre, and voting a tax of thirty thousand dollars for said purpose, to be levied in installments; and the proceedings of the board of education of said district authorizing the issuance of bonds of said district in the aggregate amount of thirty thousand dollars, of the denomination of one thousand dollars each, two of said bonds to mature on the first day of January in each of the years one thousand nine hundred and twenty-one to one thousand nine hundred and thirty-five inclusive; and the sale and award of said thirty thou-

sand dollars bonds at the public sale thereof held the second day of April, one thousand nine hundred and eight, after public advertisement, to the highest and best bidder, who offered to take the same bearing interest at the rate of four and sixty-hundredths per centum, and to pay therefor the sum of one hundred and three hundred and eighty-four-thousandths dollars, for each one hundred dollars par value thereof, and accrued interest, are hereby in all respects legalized, validated and confirmed.

§ 2. The board of education of said district is empowered to cause to be executed thirty bonds of said district of the denomination of one thousand dollars each, numbered one to thirty inclusive, dated April first, one thousand nine hundred and eight; two of said bonds in order as numbered being payable on January first in each of the years one thousand nine hundred and twenty-one to one thousand nine hundred and thirty-five inclusive, bearing interest at the rate of four and sixty-hundredths per centum, payable semi-annually on the first days of January and July in each year; said bonds to be in such form as said board of education may determine. Said bonds shall be signed by the president of the board, and shall bear the seal of said board, and shall be attested by the clerk, and when executed as aforesaid, they shall be delivered by the clerk of said district to the highest and best bidder therefor, to whom the same were awarded on April second, one thousand nine hundred and eight, on receipt of the amount of one hundred and three hundred and eighty-four-thousandths dollars, for each one hundred dollars par value thereof, and accrued interest, the amount bid therefor. The proceeds of the sale of said bonds shall be used to pay the cost of erecting an addition to, and the remodeling of, the said school building in the village of Rockville Centre.

§ 3. There shall be raised, levied and collected annually by tax upon the taxable property of said school district a sum sufficient to pay the interest on said bonds as the same becomes due, and there shall be raised, levied and collected in each of the years one thousand nine hundred and twenty to one thousand nine hundred and thirty-four, inclusive, the sum of two thousand dollars to provide for the payment of the principal of the said bonds as they mature.

§ 4. This act shall not affect any action or proceeding now pending in any court.

§ 5. This act shall take effect immediately.

Chap. 410.

AN ACT to amend the county law, relative to the general powers of boards of supervisors.

Became a law, May 20, 1908, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision two of section twelve of chapter six hundred and eighty-six of the laws of eighteen hundred and ninety-two, entitled "An act in relation to counties, constituting chapter eighteen of the general laws," is hereby amended so as to read as follows:

2. Audit all accounts and charges against the county, and direct annually the raising of sums necessary to defray them in full.

§ 2. This act shall take effect immediately.

Chap. 411.

AN ACT to legalize and validate all proceedings heretofore had for the issuance and sale of sixty thousand dollars bonds of the board of education of union free school district number eleven, town of Southampton, county of Suffolk, New York; to validate thirty thousand dollars of said bonds heretofore issued, to authorize the issuance of the remaining thirty thousand dollars of said bonds; to authorize the raising of taxes to pay the principal and interest of said sixty thousand dollars bonds; and to authorize a resale of thirty thousand dollars of said bonds under certain conditions.

Became a law, May 20, 1908, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The adoption of a proposition submitted at a special meeting of the qualified voters of union free school district number eleven, town of Southampton, county of Suffolk, New York,

held February fifteenth, one thousand nine hundred and seven, authorizing the construction of a school building on the school site of said district on the south side of east Parker street in the village of Sag Harbor; appropriating sixty thousand dollars for the purpose of constructing said building, and authorizing the board of education of said district to issue bonds of said district in the amount of sixty thousand dollars, payable in annual installments of three thousand dollars each; and the proceedings of the board of education of said district in offering said sixty thousand dollars of bonds at public sale on the seventeenth day of September, one thousand nine hundred and seven, and awarding, issuing and delivering to the Sag Harbor savings bank thirty thousand dollars of said bonds, consisting of ten bonds of the denomination of three thousand dollars each, dated October first, one thousand nine hundred and seven, and maturing one each on the first days of October in each of the years one thousand nine hundred and eight to one thousand nine hundred and ten inclusive, and on the first days of October in the years one thousand nine hundred and twenty-one to one thousand nine hundred and twenty-seven inclusive, at par and accrued interest; and the resolution of the board of education of said district, passed on February twelfth, one thousand nine hundred and eight awarding the balance of thirty thousand dollars of said bonds to the highest bidder therefor, are hereby in all respects legalized, validated and confirmed, and the thirty thousand dollars of said bonds issued to the Sag Harbor savings bank are declared to be legal and binding obligations of said school district.

§ 2. The board of education of said district is authorized and empowered to cause to be executed thirty bonds of the denomination of one thousand dollars each, numbered from one to thirty inclusive, dated November first, one thousand nine hundred and seven, three of said bonds in order as numbered being payable on November first in each of the years one thousand nine hundred and eleven to one thousand nine hundred and twenty inclusive, bearing interest at the rate of five per centum per annum, payable semi-annually on the first days of May and November in each year; said bonds to be in such form as said board of education may determine. Said bonds shall be signed by the president of the board and shall bear the seal of said board, and shall be attested by the clerk, and when executed as aforesaid they shall be delivered by the clerk of said district to the highest

bidder therefor to whom the same were awarded on February twelfth, one thousand nine hundred and eight, on receipt of the amount of one hundred and one and thirty one-hundredths dollars for each one hundred dollars par value thereof and accrued interest, the amount bid therefor. Should said purchasers fail to pay for and take up the same, the board of education may advertise and sell the same in the manner provided by the consolidated school law. The proceeds of the sale of said bonds shall be used to pay the cost of erecting said school building in the village of Sag Harbor.

§ 3. There shall be raised annually by tax upon the taxable property in said school district a sum sufficient to pay the interest on and principal of said bonds as the same shall become due.

§ 4. This act shall not affect any action or proceeding now pending in any court.

§ 5. This act shall take effect immediately.

Chap. 412.

AN ACT to amend chapter six hundred and five of the laws of eighteen hundred and seventy-five, entitled "An act in relation to the county treasurers of the counties of Monroe, Seneca," in relation to the compensation of the treasurer of Monroe county.

Became a law, May 20, 1908, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section six of chapter six hundred and five of the laws of eighteen hundred and seventy-five, entitled "An act in relation to the county treasurers of the counties of Monroe, Seneca," is hereby amended to read as follows:

§ 6. Such treasurers whether elected or appointed, shall receive for their services, as such treasurer, an annual salary to be fixed by the board of supervisors. They shall not receive to their use any interest, fees or other compensation for his services as such treasurer, except in proceedings for sale of land for sale of unpaid taxes, as may be provided for by law; but such excepted and additional fees, interest and compensation shall not, in Monroe county, hereafter belong to the treasurer of such county, nor shall

he retain for his use any fees accruing from services of any kind or nature performed in the Monroe county treasurer's office by any clerk, or employee therein. Such board of supervisors may authorize the appointment, by such treasurer, of a clerk or such other assistants in their offices, as may be deemed necessary by such board, the salary or other compensation of such clerks or assistants to be fixed and determined by such board, and to be a county charge.

§ 2. This act shall take effect October first, nineteen hundred and nine.

Chap. 413.

AN ACT to amend chapter forty-seven of the laws of eighteen hundred and ninety-one, entitled "An act to make the office of county clerk of Herkimer county a salaried office and regulating the management of said office," relative to the salaries of the deputy clerk and special deputies.

Became a law, May 20, 1908, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section eight of chapter forty-seven of the laws of eighteen hundred and ninety-one, entitled "An act to make the office of county clerk of Herkimer county a salaried office and regulating the management of said office," as amended by chapter sixty-six of the laws of nineteen hundred and four and by chapter four hundred and twelve of the laws of nineteen hundred and five, is hereby amended to read as follows:

§ 8. There shall be one deputy clerk, and the said board of supervisors shall have power to designate the number of special deputy clerks, and said county clerk shall appoint such deputy and such number of special deputies as so designated by said board; also as many assistants as may be necessary for the faithful discharge of the duties of his office, and shall be responsible for their official acts; and the salaries of said clerk and assistants shall be paid in the same manner as the salaries of other county officers are paid. The salary of the deputy clerk and the salaries of the special deputies shall be fixed by the board of supervisors who may determine the number of assistants and

fix their salaries, or compensation; provided, however, that all work done by such assistants may be done and paid for by the piece or folio at the discretion of the clerk, and the amount of work so performed by each person shall be certified to by the county clerk for each calendar month. Every such special deputy clerk, before entering upon the duties of his office, shall take the oath of office prescribed by the constitution. Any such special deputy clerk may perform such duties of the clerk as may be assigned to him by an order of the clerk, to be entered in his office, and shall also perform all the duties of the clerk when both the clerk and deputy clerk are absent from the office, except that of deciding upon the sufficiency of sureties, with the same force and effect as if performed by the clerk himself.

§ 2. This act shall take effect immediately.

Chap. 414.

AN ACT to amend chapter two hundred and sixty-three of the laws of nineteen hundred and three, in relation to the compensation of the clerk of the board of supervisors of the county of Greene.

Became a law, May 20, 1908, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section two of chapter two hundred and sixty-three of the laws of nineteen hundred and three, entitled "An act to make the office of supervisor of Greene county a salaried office, and to fix the compensation of the clerk of the board of supervisors," is hereby amended to read as follows:

§ 2. At the organization of said board of supervisors in the fall of the year, nineteen hundred and four, and each year thereafter, it shall elect a clerk, who shall be clerk of said board of supervisors. Such clerk shall receive an annual salary to be fixed by the board of supervisors and paid at the end of the regular session of said board, by the treasurer of Greene county, as other county salaries are paid. Such clerk shall receive no other or greater compensation for any services he may render, as such clerk to the county, or to the board of supervisors

§ 2. This act shall take effect immediately.

Chap. 415.

AN ACT to provide means to defray the expenses of the acquiring of a site or sites for and the erection and furnishing of a new court house and county jail in the city of Schenectady, New York, for the use of the county of Schenectady, and to authorize the sale of the present court house, jail and county clerk's and surrogate's office buildings.

Became a law, May 20, 1908, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The board of supervisors of the county of Schenectady is hereby authorized to borrow upon the faith and credit of the said county such a sum of money as shall be sufficient to meet and pay all of the expenditures necessary to acquire and pay for a site or sites and to erect and furnish a new court house and jail in the city of Schenectady for the use of the county of Schenectady, not exceeding the sum of six hundred thousand dollars and to issue the bonds of the said county of Schenectady therefor, bearing interest at a rate of not exceeding four and one-half per centum per annum, payable semi-annually; the principal of such bonds shall be payable at such time and times not exceeding fifty years from the respective date of issue and in such amount in each and every year from the date of issue, as shall be fixed and determined by the said board of supervisors of such county, excepting, however, that not less than one-fiftieth of the total amount of the principal of said bonds issued hereunder shall be made payable and shall be paid in each and every year from and after the date of issue and none of such bonds shall be renewed when due. Said bonds shall be of the denomination of not less than one thousand dollars, each shall be signed by the county treasurer of the county of Schenectady, and countersigned by the chairman of the board of supervisors of said county and the seal of said board of supervisors shall be affixed to each of said bonds by the said county treasurer. Said bonds shall be sold by the county treasurer of said county from time to time as hereinafter provided as the proceeds shall be required by the said board of supervisors for the purposes of providing said site, or sites, and

the erection of such buildings. Said bonds may be registered in the office of the county treasurer of the county of Schenectady and shall be in such form consistent with law as the said board of supervisors shall deem proper and shall be payable at and interest shall be payable at one or more banking institutions in the county of Schenectady, New York, to be designated in the body of the said bond. The county treasurer shall keep a separate account of the moneys raised upon said bonds and shall pay therefrom upon the order of the said board of supervisors, from time to time, such amounts as shall be required under this act to pay for said site or sites and the erection and furnishing of the said buildings. Said bonds shall be negotiated by the county treasurer by selling the same at his office to the highest bidder at public auction, or in such other manner as he may deem for the best interests of the said county, at not less than the par value thereof. Said county treasurer shall give public notice of the time and place of any sale of such bonds by public auction and of any reception and opening of sealed proposals therefor, by publishing a notice thereof for at least fifteen days previous to each sale or opening in the newspaper published in the county of Schenectady designated by said board of supervisors for the publication of official notices. The county treasurer of said county is hereby authorized to make advances for the necessary expenditures for the purposes of acquiring said site or sites and for the erection of said buildings from any funds of the county in his possession prior to the issuing of the whole or any part of the bonds herein authorized and to be reimbursed from the proceeds of any subsequent sale of such bonds.

§ 2. It shall be the duty of the board of supervisors of said county to cause to be raised yearly, in each fiscal year from the time said bonds shall be issued by taxes upon the taxable property in said county in the same manner as other taxes are levied, a sufficient sum to pay the interest upon said bonds when and as the same shall become due and payable, and the principal of said bonds as the same shall become due.

§ 3. The county treasurer of the county of Schenectady shall be required before the issuance of said bonds to file with the county clerk of the county of Schenectady, a bond in the penalty of fifty thousand dollars, with sufficient surety or sureties thereon to be approved as to its form and the sufficiency of said surety or sureties by the county judge of Schenectady county conditioned for

the faithful performance of his duties as such county treasurer in the issuance of the said bonds and the handling of the moneys received therefrom, and the expense of such bond to be a county charge.

§ 4. The board of supervisors of the county of Schenectady is also hereby authorized to sell upon such terms and conditions and at such price as the said board shall deem advisable the present county clerk's and surrogate's office building and county court house and jail, and the sites upon which they are located, all situate in the said city of Schenectady, New York, and the county treasurer is hereby authorized to execute a deed of the same, to be countersigned by the chairman of the said board of supervisors, in accordance with the directions of the said board of supervisors at such time as the said county of Schenectady shall have no further use for the said property by reason of the completion of the new court house and jail. The proceeds of such sales exclusive of expenses thereof, shall be used solely towards the completion of said new court house or jail or the equipment or furnishing thereof and in paying bonds issued under this act.

§ 5. Said board of supervisors shall, in such manner as it may direct, select and adopt a plan or plans or specifications for the erection of said new court house and shall have authority to employ an architect, superintendent or other assistant as may be required and may proceed and direct the work to be executed. The said board shall advertise in one or more newspapers published in Schenectady county for such time as they deem necessary, for bids for the performance of the work, and supplying the materials required in the erection and completion of said new court house and also bids for the furnishing of the same when erected. The form of all contracts for which bids are so invited shall be fixed by said board, and the work of erecting, completing and furnishing said new court house ready of occupancy, and the supplying of material and furniture therefor, may be divided into as many separate contracts as said board shall elect. All bids received in response to said advertisements shall be publicly opened at a meeting of the board of supervisors and said board shall award each contract, as aforesaid, to the lowest responsible bidder, the said board may accept or reject either or any of said bids, and may readvertise for bids, whenever and as often, as said board of supervisors shall deem it necessary for the best interests of the county so to do. All such contracts, when awarded shall be executed by said board,

in the name and on behalf of said county. Each bidder to whom a contract is awarded as hereinbefore provided, may execute and deliver to said board of supervisors a good and sufficient bond to said county, with surety satisfactory to said board of supervisors in such form and for such sum as said board shall direct, for the faithful and prompt performance of such contract. If such accepted bidder for any contract shall fail to execute contract, or fail to execute and deliver the bonds herein provided for within five days after notice that the contract has been awarded to him, he shall forfeit all right to said contract or any forfeiture deposited, and the said contract shall thereupon be readvertised and relet by said board. Said contracts, when executed, shall be carried out after the direction and supervision, and subject to the inspection and approval, at all times, of said board of supervisors.

§ 6. This act shall take effect immediately.

Chap. 416.

AN ACT in relation to the terms of office of present supervisors in certain towns of the county of Schenectady, the election and terms of their successors, and to repeal chapter two hundred and ten of the laws of nineteen hundred and one, entitled "An act to fix the terms of office of supervisors for the towns of Niskayuna, Glenville, Rotterdam, Princetown and Duanesburg, in the county of Schenectady, to be hereafter elected."

Became a law, May 20, 1908, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The terms of office of the several supervisors of the towns of Niskayuna, Glenville, Rotterdam, Princetown, and Duanesburg, in the county of Schenectady, beginning on the second Tuesday in April, nineteen hundred and eight, shall expire, and the powers and duties of such supervisors cease and determine, on and including the thirty-first day of December, nineteen hundred and nine, except that such supervisors shall continue to hold office until their successors have been elected under the provisions of the town law, and have qualified; and

the provisions of the town law shall govern the election and terms of office of supervisors in said towns to serve after and including January first, nineteen hundred and ten.

§ 2. Chapter two hundred and ten of the laws of nineteen hundred and one, entitled "An act to fix the terms of office of supervisors for the towns of Niskayuna, Glenville, Rotterdam, Princetown and Duanesburg, in the county of Schenectady, to be hereafter elected," is hereby repealed.

§ 3. This act shall take effect immediately.

Chap. 417.

AN ACT authorizing the designation of a permanent site, within the grounds of the New York State School for the Blind, for a soldiers' and sailors' monument, to be erected by the town of Batavia.

Became a law, May 20, 1908, with the approval of the Governor. Passed by a two-thirds vote.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The trustees of the New York State School for the Blind at Batavia are hereby authorized to establish and designate within the bounds of the grounds or park of such school, a permanent site for a soldiers' and sailors' monument to be erected by the town of Batavia at a cost, including the expense of grading and other incidental expenses, of not less than fifteen thousand dollars. The designation of such site shall be approved by the commissioners of the land office and be subject to such conditions as they may impose. The cost of such monument and all the expense of grading and other expenses incidental to the erection thereof shall be paid by the town of Batavia so that there shall be no expense to the state in connection therewith.

§ 2. This act shall take effect immediately.

Chap. 418.

AN ACT to regulate the sessions of the board of supervisors in Oneida county and to fix the compensation of the members thereof.

Became a law, May 20, 1908, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The board of supervisors of the county of Oneida shall meet on the second Wednesday after the first Monday of February in the year nineteen hundred and nine and on the second Wednesday after the first Monday in each year thereafter, for the purpose of organization and for the transaction of such other business as may come before it; said board shall also hold regular meetings on the second Wednesday after the first Monday of May, August and November in each year, and at such other times as it may fix by resolution duly adopted by a vote of the majority thereof.

§ 2. Each supervisor elected or appointed for any town or ward shall receive for his services as a member of the board of county canvassers and as supervisor the annual salary now allowed by law, mileage at the rate of eight cents per mile for once going and returning from his residence to the place where the sessions of the board shall be held, for attending each regular session, and the fees now allowed by law for copying or extending the assessment roll, and no supervisor shall receive any other or greater compensation, fee, charge, allowance, perquisite or emolument of any kind or nature except for services which are by law a town charge and except when employed and actually rendering service on any committee of said board, by its direction, when said board is not in session, for which services he shall receive three dollars for each day's service thus actually performed and his actual necessary expenses. Provided that no one member of the board shall receive in any one year for such services and for such actual necessary expenses more than two hundred dollars, and provided that the total amount paid to all the members of the board in any one year for such services and for such actual necessary expenses shall not exceed the sum of two thousand dollars.

§ 3. At the organization of said board in the year nineteen hundred and nine, and in each year thereafter, a permanent chairman shall be elected who shall serve for one year. In case of his death, removal, resignation or retirement from said board, a successor shall be elected for the unexpired term. In case of failure to elect a permanent chairman on any day herein provided said board shall adjourn from day to day, Sundays excepted, until the said permanent chairman shall be elected. At the organization of said board in the year nineteen hundred and nine, and in each year thereafter, it shall elect a clerk. The clerk shall receive a stated salary to be fixed by said board, which shall be payable quarterly, and shall cease immediately upon his death, resignation or removal, said salary to be paid by the county treasurer as other county salaries are paid. Said clerk shall receive no other compensation for any services he may render to the county. Said clerk may be removed and his successor appointed at the pleasure of said board and shall hold office until his successor is appointed. The clerk shall give a bond in such amount and with such sureties as the board of supervisors shall approve. The officers elected and appointments made by the board shall be viva voce upon the call of the roll of members. All other questions shall be determined in a similar manner if demanded by any member.

§ 4. Said board of supervisors shall have power to enact local laws or rules, governing their own conduct and manner of doing business; to fix and prescribe penalties for failure of its members to attend the stated or adjourned meetings of said board or of any committee thereof, and the manner of collecting the same; to prescribe the manner in which the business of any public office shall be transacted, or its records kept; and to fix the time when, and the form in which reports shall be made to said board by any officer of said county.

§ 5. Such standing committees as are now prescribed by the rules or any local law adopted by said board, or which may hereafter be prescribed, shall be appointed by the permanent chairman of said board within twenty days after his election, such appointment to be in writing and filed with the clerk of said board of supervisors, who shall give immediate notice thereof to the members of said board by mail. Such committees shall continue in office until their successors have been appointed, but nothing herein contained shall be construed to allow any member of said board

whose term shall have expired, or who shall have resigned or have been removed from office, to continue to serve upon any committee after he shall have ceased to be a member of the board of supervisors. Any vacancy in any committee shall be filled by appointment by the permanent chairman of said board.

§ 6. For the proper classification of the expenditures made in behalf of said county, said board of supervisors may from time to time set apart and establish separate special funds in the hands of the county treasurer, and may increase or diminish the amounts thereof; and may annually include in the taxes assessed and levied in said county such sums as shall be necessary to restore such fund, assessing back upon the several towns and cities of said county, or the county at large, respectively, such part of said disbursements as may be lawfully chargeable thereto. Except as provided in sections seven and eight of this act, no charge against said county shall be paid by the county treasurer upon any other authority than the order or warrant of said board of supervisors, signed by the clerk of said board and countersigned by its chairman, or by a deputy chairman duly authorized by a resolution of said board in case of the absence or disability of the permanent chairman, or a peremptory mandamus duly granted by a court of competent jurisdiction. Such orders or warrants shall be payable at sight, unless otherwise specified therein, pursuant to the resolution of said board directing such payment, but no bills allowed shall be made payable later than the fifteenth day of the month next ensuing. Every claim presented shall show upon its face by whom it was contracted, and if for merchandise the time when and the person to whom said merchandise was delivered; every claim presented shall be fully itemized and verified by the oath of the claimant, or his agent.

§ 7. Said board shall within three months from January first, nineteen hundred and nine, enact local laws or rules governing the audit and payment of the following county charges: the per diem allowance and mileage of jurors drawn in the courts of said county; salaries or wages of county officials and employees; disbursements of the superintendent of the poor of said county; and to fix and prescribe the form in which such claims shall be verified by the claimant and certified by the clerk of the court or superintendent of the department in which incurred; but until such local laws shall have been adopted nothing in this act shall be deemed to alter or amend the existing provision of law under

which such county charges are paid by the treasurer of said county. Such local laws shall not provide for payment of any of the charges enumerated in this section except jurors', court officers' and witnesses' fees and mileage, in any other manner than upon the final audit and order of said board of supervisors. Said board, in and by such local laws, may require that all original bills duly itemized and verified shall be filed in the office of its clerk, in which case it shall be lawful for the county clerk or the superintendent of the poor, as the case may be, to require from the claimant duplicate bills and vouchers to be filed and preserved in his own department.

§ 8. Whenever in the judgment of a justice of the supreme court, or a judge of the county court in said county, any expenditure incurred in the administration of justice in said county by the district attorney or jury commissioner, or any other officer of said courts, ought to be summarily audited and paid, a certificate of such necessity and of the allowance of such claims shall be made by such justice or judge; and upon the filing of such certificate with the clerk of the board of supervisors, a county order or warrant shall be forthwith issued and signed by the clerk, or by the chairman thereof in case of his inability to act. All orders based on such certificates shall be payable forthwith out of the proper special fund in the county treasury, or if such fund is insufficient, out of any unexpended fund in said treasury.

§ 9. It shall not be lawful for said board of supervisors to audit or allow or for the county treasurer to pay any supervisor a greater sum than is allowed by this act. Every offense against the provisions of this act shall be a misdemeanor, and on conviction, any person so convicted shall forfeit his office and shall, in addition to the punishment prescribed by law for misdemeanor, be liable to penalty of two hundred and fifty dollars.

§ 10. All acts or parts of acts inconsistent with this act are hereby repealed so far as the same may relate to the county of Oneida.

§ 11. This act shall take effect January first, nineteen hundred and nine.

Chap. 419.

AN ACT to legalize the proceedings of the special meeting of school district number one, town of Canaan, Columbia county, held on the twenty-ninth day of March, nineteen hundred and seven, relating to the borrowing of money for the purpose of defraying the expenses and for the erection and completion of a schoolhouse in said district, and to authorize an issuance of bonds therefor.

Became a law, May 20, 1908, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. All the proceedings of the special meeting of school district number one, town of Canaan, Columbia county, held on the twenty-ninth day of March, nineteen hundred and seven, relating to the raising and borrowing of the sum of five thousand dollars for the purpose of defraying the expenses for the erection and completion of a schoolhouse in said school district and all of the proceedings and acts of the trustees of said school district prior and subsequent to the said special meeting, relating to the raising and borrowing of the said sum of five thousand dollars for the purpose aforesaid are hereby legalized, ratified and confirmed. The trustees of said school district are hereby authorized to cause to be issued and sold the bonds of the said school district to the amount of five thousand dollars, of the denomination of five hundred dollars each, dated on the first day of April, nineteen hundred and eight, and payable in equal installments of five hundred dollars and accrued interest on the first day of April, in each year hereafter, until the whole amount thereof shall have been paid, interest on all bonds unpaid to be paid annually on the first day of April in each year for the purpose of the erection and completion of the schoolhouse in said district. Said bonds shall bear interest at a rate not exceeding five per centum, and shall not be sold for less than the par value thereof, and accrued interest.

§ 2. Nothing in this act contained shall be so construed as to affect any action or proceeding pending in any court when this act takes effect.

§ 3. This act shall take effect immediately.

Chap. 420.

AN ACT in relation to the payment of the costs and expenses of draining certain lands in the town of Eastchester, Westchester county, on the petition of Herbert D. Lent, as supervisor thereof.

Became a law, May 20, 1908, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. On the assent of the town board of the town of Eastchester, in the county of Westchester and state of New York by a resolution thereof, one-fourth of the costs and expenses of the improvement referred to in the title of this act and commonly known as the Midland avenue drainage is hereby made a lien and assessment on the lands and premises included in the district of assessment heretofore fixed by the drainage commissioners in said proceeding for such improvement; and on such assent of the said town board, one-fourth of such costs and expenses and no more shall be levied on the lands and premises in said district in the same proportion in which the whole thereof would be by law assessed and apportioned thereon if this act was not passed, and on the said assent of said town board three-quarters of the costs and expenses of said improvement shall be a general town charge to be borne and paid by the said town of Eastchester at large.

§ 2. The said drainage commissioners shall as soon as practicable after the passage of this act, meet and proceed to ascertain and determine the costs and expenses of said improvement and levy and assess the same in the proportions in this act provided. After the town board of said town of Eastchester has consented to such apportionment as in section one of this act provided, the said drainage commissioners shall forthwith proceed to apportion and confirm such assessment of one-fourth of said costs and expenses upon the several pieces or parcels of land within said district of assessment in the manner in which they are now authorized by law to make such assessments; and the same proceedings shall thereupon be taken for the payment and collection of said assessments as are now provided by law for the payment and collection of such assessment.

§ 3. Upon the consent of the town board of said town being given to the distribution and collection of the costs and expenses of said improvement one-fourth thereof from the district of assessment and three-fourths from the town at large as in section one of this act provided, the proceedings heretofore had for the purpose of levying, laying or apportioning the amount of said costs and expenses upon the lands and premises in said district of assessment shall be deemed to be discontinued and set aside and of no further force or effect.

§ 4. When the cost and expenses of said improvement including land damages and the costs and expenses of the proceedings now pending for the condemnation of the easements in the real property required for said improvement have been ascertained by the drainage commissioners they shall certify the amount thereof to the supervisor of the said town of Eastchester as now provided by law, and the supervisor of said town shall thereupon immediately issue the bonds of said town to the total amount named in said certificate of said commissioners, and all the provisions of section eleven, title sixteen, chapter eight, part three of the revised statutes, known as the drainage law, relative to bonds issued thereunder shall apply to the said bonds of the town of Eastchester herein provided for.

§ 5. This act shall take effect immediately.

Chap. 421.

AN ACT authorizing the tax collector for the West Side sewer in the town of Gates, Monroe county, appointed pursuant to chapter six hundred and twenty of the laws of nineteen hundred and four to buy and sell lands.

Became a law, May 20, 1908, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. John McKie, as the tax collector for the West Side sewer in the town of Gates, appointed pursuant to the provisions of chapter six hundred and twenty of the laws of nineteen hundred and four, or his successor in office, is authorized and empowered to purchase in his own name as such collector any lands sold under foreclosure sale for the purpose of collecting the as-

sessment levied pursuant to the provisions of chapter six hundred and three of the laws of eighteen hundred and ninety-two and chapter four hundred and thirty-eight of the laws of eighteen hundred and ninety-five and the acts amendatory thereof and supplemental thereto, whenever in his judgment it shall be for the best interests of the fund represented by him to make such purchase, and all purchases heretofore made by such collector upon such foreclosure sale are hereby ratified and confirmed. Said collector is authorized to sell at public auction any lands heretofore or hereafter purchased by him as above provided, either in whole or in part, and the proceeds from such sale, after paying the necessary expenses thereof, shall be paid to the treasurer of Monroe county, as provided by chapter six hundred and twenty of the laws of nineteen hundred and four. Said collector shall also have the power to sell the whole or any part of said lands heretofore or hereafter purchased by him, as aforesaid, at private sale at any price which he deems reasonable, provided such price shall be approved in writing by the treasurer of Monroe county; and the said collector is authorized to execute and deliver to the purchaser of said lands, at either public or private sale, a proper deed of conveyance of the same.

§ 2. This act shall take effect immediately.

Chap. 422.

AN ACT to amend chapter six hundred and thirty-nine of the laws of nineteen hundred and six, entitled "An act to provide for a commission to investigate and consider means for protecting the waters of New York bay and vicinity against pollution and authorizing the city of New York to pay the expenses thereof," in relation to the term of said commission, compensation for its members and funds to be raised in said city for the purposes of said act.

Became a law, May 20, 1908, with the approval of the Governor. Passed, three-fifths being present.

Accepted by the City.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Sections five, six and seven of chapter six hundred and thirty-nine of the laws of nineteen hundred and six, entitled

"An act to provide for a commission to investigate and consider means for protecting the waters of New York bay and vicinity against pollution and authorizing the city of New York to pay the expenses thereof," are hereby amended to read respectively as follows:

§ 5. The commission shall terminate on May first, nineteen hundred and ten, and all maps, results or surveys and examinations, estimates and other papers and matter acquired by the New York commission shall be properly indexed and labeled and turned over to the board of estimate and apportionment of New York city.

§ 6. The members of the commission shall receive a compensation of three thousand dollars per annum for their personal services and expenses.

§ 7. Corporate stock of the city of New York may be authorized to be issued by the board of estimate and apportionment without the concurrence or approval of any other board or public body in accordance with section one hundred and sixty-nine of the Greater New York charter, in order to provide the means for carrying out the provisions of this act, but not to exceed the sum of seventy-five thousand dollars in any one year. All payments from the sale of such corporate stock shall be made upon proper vouchers, having the authorization of the chairman and secretary or by the signatures of a majority of the commission herein provided for, and in accordance with the laws, regulations and practice now in force for the payment of money by the comptroller of the city of New York.

§ 2. This act shall take effect immediately.

Chap. 423.

AN ACT to provide for an approach and entrance to the Bronx park from the junction of Third and Pelham avenues, city of New York.

Became a law, May 20, 1908, with the approval of the Governor. Passed three-fifths being present.

Accepted by the City.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The board of estimate and apportionment of the city of New York is hereby authorized in its discretion to change

the map or plan of the city of New York so as to provide for an approach and entrance to the Bronx park by locating and laying out the same over any property now or formerly belonging to the Saint John's College, Fordham, or Fordham University, without the consent of the present owners thereof, from the intersection of Third avenue and Pelham avenue in the borough of the Bronx to the southerly boundary of the Bronx park in said borough in the manner now provided by law.

§ 2. Title to the property required for said approach and entrance is authorized to be acquired by the city of New York in the manner now provided by the greater New York charter as revised and amended, relating to the acquisition of lands and interests therein for public purposes, and subject to the right of any elevated railroad maintaining an elevated structure over the same, to maintain the same and operate said road.

§ 3. The department of parks of the city of New York is authorized to construct and maintain such approach and entrance out of any funds provided therefor by the board of estimate and apportionment.

§ 4. This act shall take effect immediately.

Chap. 424.

AN ACT to authorize the city of New York to enter into contracts and agreements to provide for the disposal of sewerage of villages or townships within the Croton watershed and to allow the city of New York to acquire such lands as may be necessary to carry into effect said system and to acquire lands for the sanitary protection of the said water supply and to raise funds to carry said agreements into effect or to improve the sanitary protection of said water supply.

Became a law, May 20, 1908, with the approval of the Governor. Passed, three-fifths being present.

Accepted by the City.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The city of New York by its commissioner of water supply, gas and electricity, is hereby authorized and empowered

to enter into a contract or agreement subject to the approval of the board of estimate and apportionment with the municipal authorities of any town or village within the Croton watershed in the county of Westchester, New York, to provide for the disposal of the sewage of any town or village within said watershed in such manner as may be provided for in said agreement and the municipal authorities of any village or the town board of any town within said watershed are likewise authorized and empowered hereby to enter into the agreement aforesaid, and the municipal authorities of any village or the town board of any town within said watershed are hereby authorized and empowered to provide in said contract or agreement that all persons within the area affected owning buildings on streets where sewers are or may be hereafter constructed, located under said agreement, shall connect with the sewer systems as provided in said contract or agreement, and in the event of any failure of any person or persons aforesaid to connect with any sewer system and the failure of the municipal authorities of the village or town board of any town within said watershed to compel said person or persons to connect with such sewer system within sixty days after notice and demand, then and in that case the city of New York shall have the right to cause said connection to be made at the expense of the owners so failing or neglecting to connect with said sewer system which expense may be recovered by the city of New York in a suit in any court having competent jurisdiction.

§ 2. The city of New York by its commissioner of water supply, gas and electricity is hereby authorized and empowered to acquire, subject to the approval of the board of estimate and apportionment, such real estate within the Croton watershed in the county of Westchester as may be necessary to carry into effect any agreed plan for the disposal of the sewerage of any village or township within said watershed, and also such real estate as may be necessary to improve and protect the water supply of the city of New York within the Croton watershed, any special or general act to the contrary, notwithstanding, providing however, that the municipal authorities of any village or the town board of any town, consent to the taking of land to be acquired as aforesaid, and that such land as may be acquired for the purpose of carrying out any agreed plan or to protect and improve the water supply of the city of New York within said watershed be

taken only on the consent and approval of the said municipal authorities of any village or the town board of any town of such land as may be affected within said Croton watershed.

§ 3. In order to provide the means with which to pay any sums of money that may become due from the city of New York under the provisions of this act, corporate stock of the city of New York shall be issued when duly authorized by the board of estimate and apportionment, without the concurrence or approval of any other board or public body.

§ 4. This act shall take effect immediately.

Chap. 425.

AN ACT to provide a method for enforcing the collection of unpaid taxes and assessments which have heretofore been levied or confirmed by the city of Mount Vernon upon real property which has not been sold for the nonpayment of such unpaid taxes or assessments, and to provide a method for enforcing the collection of taxes and assessments which may be hereinafter* levied or confirmed upon real property by the said city of Mount Vernon.

Became a law, May 20, 1908, with the approval of the Governor. Passed, three-fifths being present.

Accepted by the City.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. All taxes and assessments heretofore or hereafter levied or confirmed by the city of Mount Vernon or by its officers, together with the interest, fees, penalties, and all other lawful charges thereon, are and shall be and remain, until actually paid or satisfied, or set aside by the common council or a court of competent jurisdiction, a lien upon the land, tenements or real estate on which or in respect to which the same have been made, from the time of the levying and confirmation of the same, and are and shall be a lien on the property taxed or assessed prior and superior to all other liens and encumbrances, and every such tax and assessment shall operate to create a debt and personal

* So in original.

obligation in favor of the city and against the owner of the property taxed or assessed.

§ 2. The collection of every tax and assessment heretofore levied or confirmed by the city of Mount Vernon upon any real property, which has not been sold for the nonpayment thereof prior to the passage of this act under the provisions of any existing statute, and the collection of every tax and assessment hereafter levied or confirmed by the city of Mount Vernon shall be enforced by the city only under the provisions of this act; as to all such taxes and assessments the remedy herein provided shall be exclusive.

§ 3. If any tax or assessment heretofore levied by the city of Mount Vernon upon any real property, which has not been sold for the nonpayment thereof prior to the passage of this act under the provisions of any existing statute, shall be and remain unpaid on October first, nineteen hundred and nine; or if any tax hereafter levied by the city of Mount Vernon shall be and remain unpaid for three years after it shall have been levied; or if any assessment hereafter confirmed by the city of Mount Vernon shall be and remain unpaid for five years after it shall have been confirmed, the corporation counsel must, unless otherwise directed by the common council, give notice to the owner or owners of every parcel of land as to which any such tax or assessment remains so unpaid, that he intends to commence an action to foreclose the lien of such tax or assessment, unless such tax or assessment is paid within sixty days from the date of the service of the notice; and the fee for serving such notice, not exceeding one dollar for each person served, must be added to and collected as a part of such tax or assessment. Such notice may be served upon the owner of the land taxed or assessed, if he live in Mount Vernon, personally, or by leaving it at his residence; if he do not live in Mount Vernon, personally, or by mailing the same to him, in a securely closed envelope, directed to him at his last known place of residence; if he is unknown, or if his place of residence cannot be ascertained, by leaving the same with any occupant of the premises and if the premises be unoccupied, by posting the same in a conspicuous place thereon. The service of such notice shall not be a condition precedent to the right to maintain the foreclosure action hereinafter provided for, and the failure to serve the same shall not be a defense to such action.

§ 4. When any taxes or assessments heretofore levied or confirmed by the city of Mount Vernon upon any real property, which has not been sold for the nonpayment thereof prior to the passage of this act under the provisions of any existing statute, shall be and remain unpaid on October first, nineteen hundred and nine; or when any taxes hereafter levied by the city of Mount Vernon shall be and remain unpaid for three years after they shall have been levied; or when any assessments hereafter confirmed by the city of Mount Vernon shall be and remain unpaid for five years after they shall have been confirmed, the liens created by the levying of the taxes or the confirmation of the assessments, together with the interest, fees, penalties and other lawful charges thereon to the date of judgment must be foreclosed in a court of record in the name of the city by the corporation counsel, unless the common council otherwise directs, in the same manner as is provided for the foreclosure of mortgages, and the provisions of the code of civil procedure and of the rules of practice of this state relating to the foreclosure of mortgages, and the provisions of the code of civil procedure relating to the service of process, the commencement and conduct of actions, the jurisdiction, procedure and practice of courts, apply to said actions for the foreclosure of said tax liens. A conveyance upon a sale made pursuant to a final judgment in an action brought under this act to foreclose the lien of a tax or assessment shall vest in the purchaser all the right, title and interest and equity of redemption in and to said premises so sold of all the parties to said action, and of all parties claiming under them, or any of them, whose conveyance or encumbrance is executed or recorded subsequent to the filing of the notice of pendency of action. Separate taxes or assessments against the same lot or parcel of land may be foreclosed in one action, and where several lots or parcels of land are owned by the same person or persons, corporation or corporations, separate tax liens upon separate lots and parcels of land so owned may, at the option of the corporation counsel, be foreclosed in one action. All taxes and assessments due the city of Mount Vernon with the interest, fees, penalties and other lawful charges thereon, and which are a lien upon the lands sold, and all sums which the city may theretofore have paid for the purchase of the same lands at any prior sale for the nonpayment of taxes or assessments thereon made under any provision of law existing at or

prior to the time of the passage of this act, and for which the city may hold a certificate or lease, with interest at the rate of eight per centum per annum from the date of every such prior sale, respectively, and all expenses incurred thereon by the city, shall be satisfied from the proceeds of the sale of said lands as far as possible, and judgment for the deficiency, if any, must be granted against any defendant or defendants in said actions personally liable therefor; and the final judgments in said actions may direct the cancellation or satisfaction of record of any lien or liens of any party or parties to the action. No such action shall be discontinued by the court, upon motion of any defendant therein, unless it be upon condition that he pay to the city of Mount Vernon all the sums of money it would be entitled to receive in such action if it were prosecuted to judgment and sale, except that the interest and costs shall, in such event, be computed only to the date of the making of the order of discontinuance. The corporation counsel may bid for and purchase in the name of the city any lands sold upon sales under judgments in actions to foreclose tax or assessment liens.

§ 5. Costs in any foreclosure action brought under the provisions of this act shall be in the discretion of the court. In all cases where judgment is taken by default the costs, when allowed, shall not exceed ten dollars; and in no action shall costs, when allowed, exceed fifty dollars. The award of costs in any such action shall carry with it the right to recover taxable disbursements.

§ 6. In any action or proceeding to which the city of Mount Vernon, or any of its officers, is a party, and in which it is claimed that any tax or assessment is due and owing to the city, or in which it is sought to collect the same, the statute of limitations shall not be a bar or defense.

§ 7. An action shall not be maintained to recover real estate sold under a judgment in an action brought by the city of Mount Vernon to foreclose the lien of a tax or assessment, nor to recover any right, title, interest or equity of redemption in or to real estate so sold, unless the action therefor is commenced within one year after the entry of judgment of foreclosure and sale. The limitation herein provided applies to and bars nonresident persons, persons temporarily absent from the state, minors, insane persons, persons in prison, and all other persons and corporations whether under disability or not.

§ 8. It shall be the duty of the clerk of arrears of taxes and assessments annually and between the first day of January and the first day of February to report to the common council the several parcels of land in the city of Mount Vernon upon which the total amount of arrears of taxes and assessments, when added to the unpaid current taxes and assessments, shall equal or exceed sixty per centum of the assessed value of such parcels as such assessed value appears upon the last preceding annual assessment roll. Whenever it shall appear to the common council by any such report from the clerk of arrears of taxes and assessments or otherwise, that the taxes, assessments, interest and charges on any lands in the city of Mount Vernon amount to a sum equal to sixty per centum of the assessed value of such lands the common council shall forthwith cause the appropriate action or actions to foreclose the liens of such taxes or assessments or the lien of any such tax or assessment to be brought as hereinbefore provided. Compliance with the provisions of this section may be compelled by mandamus at the instance of any taxpayer of the city.

§ 9. Every grant, deed or conveyance of lands in the said city of Mount Vernon, which shall be hereafter made, must, before the same is received for recording by the register of the county of Westchester, be presented at the office of the clerk of arrears of taxes and assessments of the city, who must, without fee, note the said transfer of title in the ledger account with said land in his office, and also note the fact of such presentation upon the deed presented; but nothing herein contained affects or impairs the validity of any record in the said register's office.

§ 10. All acts or parts of acts inconsistent with the provisions of this act are hereby repealed.

§ 11. This act shall take effect immediately.

Chap. 426.

AN ACT to amend the labor law, in relation to sanitation and safety.

Became a law, May 20, 1908, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section eighty-eight of chapter four hundred and fifteen of the laws of eighteen hundred and ninety-seven, entitled "An act in relation to labor, constituting chapter thirty-two of the general laws," as amended by chapter three hundred and six of the laws of nineteen hundred and one and by chapter four hundred and eighty-five of the laws of nineteen hundred and seven, is hereby amended to read as follows:

§ 88. **Wash-room and water-closets.**— Every factory shall contain a suitable, convenient and separate water-closet or water-closets for each sex, which shall be properly screened, lighted, ventilated, and kept clean and sanitary, and free from all obscene writing or marking; and also, suitable and convenient wash-rooms. The water-closets used by women shall have separate approaches. Inside closets shall be maintained whenever practicable and in all cases when required by the commissioner of labor. When women or girls are employed, a dressing-room shall be provided for them, when required by the commissioner of labor. In all brass and iron foundries there shall be provided and maintained for the use of employees, suitable wash-rooms with proper water service, and suitable provision for drying of the working clothes of persons using the same.

§ 2. Section ninety-four of article six of chapter four hundred and fifteen of the laws of eighteen hundred and ninety-seven, entitled "An act in relation to labor, constituting chapter thirty-two of the general laws," as amended by chapter one hundred and seventy-eight of the laws of nineteen hundred and six, is hereby amended to read as follows:

§ 94. **Tenant-factories.**— A tenant-factory within the meaning of the term as used in this chapter is a building, separate parts of which are occupied and used by different persons, companies or corporations, and one or more of which parts is so used as to

constitute in law a factory. The owner, whether or not he is also one of the occupants, instead of the respective lessees or tenants shall be responsible for the observance and punishable for the nonobservance of the following provisions of this article, anything in any lease to the contrary notwithstanding,—namely the provisions of sections seventy-nine, eighty, eighty-two, eighty-three, eighty-six, ninety and ninety-one, and the provisions of section eighty-one with respect to the lighting of halls and stairways; except that the lessees or tenants also shall be responsible for the observance and punishable for the nonobservance of the provisions of sections seventy-nine, eighty, eighty-six and ninety-one within their respective holdings. The owner of every tenant-factory shall provide each separate factory therein with water-closets in accordance with the provisions of section eighty-eight, and with proper and sufficient water and plumbing pipes and a proper and sufficient supply of water to enable the tenant or lessee thereof to comply with all the provisions of said section. But as an alternative to providing water-closets within each factory as aforesaid, the owner may provide in the public hallways or other parts of the premises used in common, where they will be at all times readily and conveniently accessible to all persons employed on the premises not provided for in accordance with section eighty-eight, separate water-closets for each sex, of sufficient numbers to accommodate all such persons. Such owner shall keep all water-closets located as last specified at all times provided with proper fastenings, and properly screened, lighted, ventilated, clean, sanitary and free from all obscene writing or marking. Outdoor water-closets shall only be permitted where the commissioner of labor shall decide that they are necessary or preferable, and they shall then be provided in all respects in accordance with his directions. The owner of every tenant-factory shall keep the entire building well drained and the plumbing thereof in a clean and sanitary condition; and shall keep the cellar, basement, yards, areaways, vacant rooms and spaces, and all parts and places used in common in a clean, sanitary and safe condition, and shall keep such parts thereof as may reasonably be required by the commissioner of labor properly lighted at all hours or times when said building is in use for factory purposes. The term owner as used in this article shall be construed to mean the owner or owners of the freehold of the premises, or the lessee or joint lessees of the whole thereof, or his, her or their agent in

charge of the property. The lessee or tenant of any part of a tenant-factory shall permit the owner, his agents and servants, to enter and remain upon the demised premises whenever and so long as may be necessary to comply with the provisions of law, the responsibility for which is by this section placed upon the owner; and his failure or refusal so to do shall be a cause for dispossessing said tenant by summary proceedings to recover possession of real property, as provided in the code of civil procedure. And whenever by the terms of a lease any lessee or tenant shall have agreed to comply with or carry out any of such provisions, his failure or refusal so to do shall be a cause for dispossessing said tenant by summary proceedings as aforesaid. Except as in this article otherwise provided the person or persons, company or corporation conducting or operating a factory whether as owner or lessee of the whole or of a part of the building in which the same is situated or otherwise, shall be responsible for the observance and punishable for the nonobservance of the provisions of this article, anything in any lease or agreement to the contrary notwithstanding.

§ 3. This act shall take effect immediately.

Chap. 427.

AN ACT to amend the penal code, relative to offenses against trade-marks.

Became a law, May 20, 1908, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section three hundred and sixty-four of the penal code is hereby amended so as to read as follows:

§ 364. Offenses against trade-marks.—A person who;

1. Falsely makes or counterfeits a trade-mark; or

2. Affixes to any article of merchandise, a false or counterfeit trade-mark, knowing the same to be false or counterfeit, or the genuine trade-mark, or an imitation of the trade-mark of another, without the latter's consent; or

3. Knowingly sells, or keeps or offers for sale, an article of merchandise to which is affixed a false or counterfeit trade-mark,

or the genuine trade-mark, or an imitation of the trade-mark of another, without the latter's consent; or

4. Has in his possession a counterfeit trade-mark, knowing it to be counterfeit, or a die, plate, brand or other thing for the purpose of falsely making or counterfeiting a trade-mark; or

5. Makes or sells or offers to sell or dispose of, or has in his possession with intent to sell or dispose of, an article of merchandise with such a trade-mark or label as to appear to indicate the quantity, quality, character, place of manufacture or production, or persons manufacturing, packing, bottling, boxing or producing the article, but not indicating it truly; or

6. Who knowingly sells, offers or exposes for sale, any goods which are represented in any manner, by word or deed, to be the manufacture, packing, bottling, boxing or product of any person, firm or corporation, other than himself, unless such goods are contained in the original packages, box or bottle and under the labels, marks or names placed thereon by the manufacturer who is entitled to use such marks, names, brands or trade-marks; or

7. Who shall sell or shall expose for sale any goods in bulk, to which no label or trade-marks shall be attached, and shall by representation, name or mark, written or printed thereon, represent that such goods are the production or manufacture of a person who is not the manufacturer;

Is guilty of a misdemeanor and punishable for the first offense by a fine not less than fifty dollars nor more than five hundred dollars or imprisonment for not more than one year, or both such fine and imprisonment, and for each subsequent offense by imprisonment for not less than thirty days or more than one year, or by both such imprisonment and a fine of not less than five hundred dollars or more than one thousand dollars.

8. Any person, firm, corporation or association, or any employee thereof, who, in a newspaper, circular or other publication published in this state, knowingly makes or disseminates any statement or assertion of fact concerning the quantity, the quality, the value, the method of production or manufacture, or the reason for the price of his or their merchandise, or the manner or source of purchase of such merchandise, or the possession of rewards, prizes or distinctions conferred on account of such merchandise or the motive or purpose of a sale, intended to give the appearance of an offer advantageous to the purchaser which is untrue or calculated to mislead, shall be guilty of a misdemeanor.

Any person, firm, corporation or association or any employee thereof who violates any provision of this subdivision shall be liable to a fine of not less than twenty-five nor more than one hundred dollars for each offense.

§ 2. This act shall take effect September first, nineteen hundred and eight.

Chap. 428.

AN ACT to amend the penal code, in relation to trading stamps.

Became a law, May 20, 1908, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section three hundred and eighty-four-q of the penal code is hereby amended by adding thereto a new subdivision to be subdivision four thereof, to read as follows:

4. No person, firm or corporation shall give, sell or deliver as an inducement for or in connection with the sale of merchandise, any coupon, check, ticket, stamp, token or similar device redeemable in money or merchandise by any other person, firm or corporation, without the consent of the person, firm or corporation originally issuing the same and responsible for the redemption thereof.

§ 2. Subdivisions four and five of such section are hereby renumbered to be subdivisions five and six respectively.

§ 3. This act shall take effect September first, nineteen hundred and eight.

Chap. 429.

AN ACT for the protection of the natural mineral springs of the State and to prevent waste and impairment of its natural mineral waters.

Became a law, May 20, 1908, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Pumping, or by any artificial contrivance whatsoever in any manner accelerating the natural flow, or producing an unnatural flow of that class of mineral waters holding in

solution natural mineral salts and an excess of carbonic acid gas from any well made by boring or drilling into the rock, or pumping, or by any artificial contrivance whatsoever in any manner accelerating the natural flow or producing an unnatural flow, of natural carbonic acid gas issuing from or contained in any well made by boring or drilling into the rock, is hereby declared to be unlawful. Pumping, or by any artificial contrivance whatsoever in any manner accelerating the natural flow, or producing an unnatural flow, of that class of mineral waters holding in solution natural mineral salts and an excess of carbonic acid gas from any well made by boring or drilling into the rock, or pumping, or by any artificial contrivance whatsoever in any manner accelerating the natural flow, or producing an unnatural flow of, natural carbonic acid gas issuing from or contained in any well made by boring or drilling into the rock, by reason whereof the natural flow from any mineral spring or any mineral well belonging to any other person or corporation, is impeded, retarded, diminished, diverted or endangered, or the quality of its waters is impaired, or the quantity of its carbonic acid gas or mineral ingredients diminished, is hereby declared to be unlawful. Pumping, or otherwise drawing by artificial appliance from any well made by boring or drilling into the rock, that class of mineral waters holding in solution natural mineral salts and an excess of carbonic acid gas, or pumping, or by any artificial contrivance whatsoever in any manner producing an unnatural flow of, carbonic acid gas issuing from or contained in any well made by boring or drilling into the rock, for the purpose of extracting, collecting, compressing, liquefying or vending such gas as a commodity otherwise than in connection with the mineral water and the other mineral ingredients with which it was associated, is hereby declared to be unlawful. The doing of any act or thing whatsoever whereby the natural flow from any spring or well of that class of mineral waters holding in solution natural mineral salts and an excess of carbonic acid gas, is impeded, retarded, diminished, diverted or endangered, or the quality of its waters is impaired, or the quantity of its carbonic acid gas or mineral ingredients diminished, is hereby declared to be unlawful.

§ 2. Any citizen of the state may maintain an action to restrain any person or corporation from committing any of the unlawful acts specified in section one of this act, in any city or town in which

said citizen is assessed for and is liable to pay, or within one year before the commencement of the action has paid, a tax.

§ 3. The attorney-general may at any time, in the exercise of his discretion, bring and maintain an action in the name of the people of the state of New York, to restrain any person or corporation from any of the unlawful acts specified in section one of this act. It shall be the duty of the attorney-general to institute and prosecute such an action, upon the written request of ten citizens of this state who are assessed for taxes therein and whose aggregate assessments amount to not less than ten thousand dollars, and who shall state, in writing, facts and circumstances showing any such unlawful act or acts and give an undertaking with sureties to be approved by a justice of the supreme court to indemnify the people against the costs of such action.

§ 4. The provisions of section eight hundred and seventy of the code of civil procedure shall apply to any action brought under this act and no person shall be excused from answering on the ground that his examination would tend to convict him of crime, but such answers shall not be used against him in any criminal prosecution for violating the provisions of this act.

§ 5. Nothing in this act contained shall be construed to affect the Onondaga salt springs reservation, located in Onondaga county, or the springs of any county adjacent thereto.

§ 6. This act shall take effect immediately.

Chap. 430.

AN ACT to authorize the comptroller to receive, admit and credit to the county treasurer of the county of Ulster arrears of taxes upon lands of nonresidents, in said county, for the years nineteen hundred and four, nineteen hundred and five and nineteen hundred and six.

Became a law, May 20, 1908, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The comptroller is hereby authorized to receive, admit and credit to the treasurer of the county of Ulster, all un-

paid taxes and arrears of taxes returned by the collector of the town hereinafter named to the treasurer of said county for the years nineteen hundred and four, nineteen hundred and five and nineteen hundred and six, upon the lands of nonresidents and corporations in the town of Ulster, in said county of Ulster, and which shall be transmitted to said comptroller on or before the first day of May next, by said county treasurer certified by him, except such taxes as shall be found to be erroneous and such as shall be found charged on lands erroneously or imperfectly described, and the said taxes shall be charged upon the said nonresident lands and corporations and shall be enforced and collected in the like manner and with the like effect as if they had been levied, returned and transmitted to said comptroller, and admitted by him, as required by law for the years nineteen hundred and four, nineteen hundred and five and nineteen hundred and six.

§ 2. This act shall take effect immediately.

Chap. 431.

AN ACT to amend chapter five hundred and eighty of the laws of nineteen hundred and two, entitled "An act in relation to the municipal court of the city of New York, its officers and marshals," in relation to jury trials and procedure connected therewith.

Became a law, May 20, 1908, with the approval of the Governor. Passed, three-fifths being present.

Accepted by the city.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section twelve of chapter five hundred and eighty of the laws of nineteen hundred and two, entitled "An act in relation to the municipal court of the city of New York, its officers and marshals," as amended by chapter two hundred and eighty-two of the laws of nineteen hundred and three, chapter five hundred and ninety-eight of the laws of nineteen hundred and four, and chapter six hundred and three of the laws of nineteen hundred and seven, is hereby amended to read as follows:

§ 12. **Board to make rules.**— Said board of justices shall adopt, and may from time to time amend or add to rules relating to the following subjects:

1. As to the hours at which court shall be opened on each day, and what officers shall be in attendance.

2. As to the order of business and manner of its discharge.

3. As to the manner in which the clerks, deputy clerks, assistant clerks, stenographers, interpreters, attendants and employees shall perform their duties, the manner of keeping records and papers, the collection and disposition of moneys and keeping accounts of the same.

4. As to the maintenance of order in and about the courts and offices thereof.

5. As to the forms and practices in said court.

6. As to a calendar in each district of actions reserved generally, to which actions may be transferred notwithstanding the provisions of section one hundred and ninety-three and one hundred and ninety-four of this act.

7. As to trial calendars and the transfer for trial from one part to another in the same district of special proceedings and of actions not necessarily triable in a part designated for jury trials under the next section of this act. The said board may also provide for the transfer from any part to a jury trial part in the same district of any special proceeding or any action triable by jury.

8. As to the reports to the comptroller by the clerks of the disbursement by them of the moneys paid to them upon demands for jury trials and as to the payment to the comptroller of the city of New York of any surplus of said moneys after the payment therefrom of the fees for serving jurors and of jurors. Such rules shall be submitted to the presiding justices of the appellate divisions of the first and second departments of the supreme court, and when approved by them shall go into effect and have the force of law.

§ 2. Section thirteen of such chapter, as amended by chapter six hundred and three of the laws of nineteen hundred and seven, is hereby amended to read as follows:

§ 13. **Parts of court; how held.**— The board of justices shall from time to time establish parts of said court and shall assign justices to hold the several parts so established, but no justice shall be assigned to sit outside of the borough for which he was

elected or appointed, excepting in one of the cases specified in section thirteen hundred and fifty-five of the Greater New York charter, as amended by chapter six hundred and three of the laws of nineteen hundred and seven. No justice shall sit in any one district for two successive months, nor, in the borough of Manhattan, for more than three months in any one year, nor in the boroughs other than Manhattan for more than the minimum number of months under a system of complete rotation by the justices within such boroughs respectively. Of the parts so established in the boroughs of Manhattan and the Bronx one or more parts in each district shall be designated for the trial by jury of all actions triable in that district in which a defendant is not under arrest. Said board shall provide for the transfer of every such action to one of the parts in which it is triable and shall prescribe on what days jury trials shall be had in each part so designated and such trials shall have a preference on such day.

§ 3. Section two hundred and thirty-one of such chapter is hereby amended to read as follows:

§ 231. **Trial by jury; drawing the jury.**—At any time when an issue of fact is joined, either party may demand a trial by jury, and unless so demanded at the joining of issue, a jury trial is waived. The party demanding a trial by jury shall forthwith pay to the clerk, the sum of four dollars and fifty cents. In default of which payment the court shall proceed as if no demand for trial by jury had been made. And the moneys so received shall be applied as far as necessary to the payment of the lawful fees of the server for summoning jurors and a fee of twenty-five cents to each juror for each case in which he shall serve as a juror such payment to be made to him by the clerk at the end of the trial of such case. When a jury trial is demanded, the trial of the case may be adjourned within the limitations provided in this act, until the time fixed for the attendance of a jury. In each special proceeding and action in which a jury trial is to be had, unless such trial is to be had in a part designated for jury trials, the clerk must in the presence of a justice of the court draw twelve persons from the undrawn jury box, and deliver the list thereof to a marshal, or to a person deputed by the court for that purpose, with a written or printed notice, directed to each person named in the list, requiring him to attend as directed as a juror, at a time and part specified therein, out of which number six of the persons attending shall

be drawn to try the cause, provided that number appear. In each part designated for jury trials the clerk in the presence of a justice of the court shall each month draw from the undrawn jury box the names of thirty-six jurors, and a minute of such drawing containing the names and addresses of the jurors so drawn shall be made and certified by such clerk and the justice in whose presence the same are drawn. Such jurors shall constitute the panel of jurors for the month succeeding that in which they are drawn and for the part for which they are so drawn, and the clerk in the part for which said jurors are drawn shall deliver to a marshal or to a person deputed by the court for that purpose a written or printed notice directed to each juror so drawn requiring him to attend as a juror at such part at a time specified therein. Separate ballots containing the names and addresses of each of the jurors so drawn shall be placed in a ballot box from which, at the trial thereof, six of the jurors shall be drawn to try each action triable by jury in that part during the month for which said jurors are drawn. No juror shall be required to attend for service or allowed to serve more than ten days in any one month. At any time the justice presiding in a part designated for jury trials may direct an additional number of jurors to be drawn for service in the month and in the part in which he is presiding. Such order must specify the number of additional jurors to be drawn and such jurors must be drawn and a minute of their drawing be made and certified and they shall be empanelled on trials in the same manner as is above provided as to the jurors drawn for each month. No person shall be allowed to serve as a juror on any trial in the boroughs of Manhattan and the Bronx whose name is not on the list of trial jurors selected by the commissioner of jurors for the district in which and the period during which, the trial is had. The clerk in each part in the boroughs of Manhattan and the Bronx shall on or before the fifteenth day of each month return to the commissioner of jurors of the county of New York a certified copy of the minutes of each drawing of jurors in his part during the preceding month and shall also certify to said commissioner the number of days each such juror attended for the purpose of serving, the number of days he actually served and the name of each such juror who was excused or discharged, with the reason therefor, and the name of each such juror notified who did not attend or serve and the name of each such juror fined and how the notice to attend was served upon the delinquent and

the date and amount of his fine unless the same has been remitted, in order that the same proceedings may be had as in the case of a delinquent juror in a court of record. The board of aldermen of the city of New York may direct that a sum, not exceeding two dollars in addition to the fees of jurors prescribed in this section, or in any other statutory provision, be allowed to each trial juror for each day's attendance at a term of the municipal court of the city of New York. The amount so paid must be raised in the same manner as other city charges are raised.

§ 4. Section two hundred and thirty-three of such chapter, as amended by chapter four hundred and fifty-one of the laws of nineteen hundred and seven, is hereby amended to read as follows:

§ 233. **Trial jurors; list of to be furnished clerk of each district.**—A list of trial jurors for each district of the municipal court of the city of New York, must be selected by the commissioner of jurors or other officer whose duty it is by law to select jurors in each of the counties included within New York city, and must be selected for each of said districts by said officer in whose county the said district is situated, and must consist of two hundred and fifty jurors for each part designated for jury trials in each district under section two hundred and thirty-one of this act. Each juror so selected shall be exempt from jury duty in every other court. A person shall not be placed upon such a list who does not reside, or have a place where he regularly transacts his business in person, within the district for which he is selected. The said commissioner of jurors or other officer shall on or before the first Monday in September in each and every year, furnish the clerk of the court in each of the districts of said court within the county for which said commissioner or other officer acts, with a list of the names, residences, places of business and occupations of the persons liable to do jury duty, and who are borne upon said list. The clerk of the court who shall receive such jury list must write on a slip of paper the name, residence, place of business and occupation of each of the persons named on said list and place the same in a box, to be called the undrawn jury box. No such slip after having been drawn therefrom shall be returned to the undrawn jury box until all other slips in such box shall have been drawn therefrom, but when all the slips in such box shall have been drawn therefrom then all of them shall be returned to said box. No such slip or other paper shall be placed in or drawn from said box

excepting as provided in this act. The judge presiding in each district of said court may impose a fine of not exceeding one hundred dollars upon each person duly drawn and notified to attend the court as a trial juror, who fails to attend as required by the notice. The clerk of the court in each district not in the boroughs of Manhattan and the Bronx must, within ten days thereafter, transmit to the commissioner of jurors or other officer, a certificate showing that the fine has been so imposed, and stating how the notice to attend was served upon the delinquent, in order that the same proceedings may be had, as in the case of a delinquent juror in a court of record. A clerk who violates this section or section two hundred and thirty-one of this act forfeits one hundred and fifty dollars for each offense.

§ 5. Sections two hundred and thirty-five and two hundred and thirty-six of such chapter are hereby amended to read, respectively, as follows:

§ 235. **How jury summoned; notice.**— The officer or the person deputed as provided in section two hundred and thirty-one of this act, upon receipt of such a notice as is mentioned in said section, must thereupon immediately summon the person named therein by giving the same to him personally, or by leaving it at his place of residence or business with some person of suitable age and discretion, and, except in the boroughs of Manhattan and the Bronx, by giving to the person to whom said notice is given the sum of twenty-five cents. The person serving such notice must make a return as to the manner in which such service was made by him and, except in the boroughs of Manhattan and the Bronx, must include in such return a statement as to whether or no said twenty-five cents was paid to each juror and also return the list. In each district all such returns must be made to the court, at its opening, on the day for which the jury is drawn.

§ 236. **Talesmen.**— Except in the county of New York, if a sufficient number of competent and indifferent jurors do not attend, the court must direct a sufficient number to complete the jury to be summoned from the vicinity, by a marshal or a person deputed for that purpose.

§ 6. This act shall take effect September first, nineteen hundred and eight.

Chap. 432.

AN ACT to amend chapter five hundred and ninety-four of the laws of eighteen hundred and ninety-eight, entitled "An act to provide for the holding of town meetings and elections in counties of the state having a certain population," relative to the filing of certificates of nominations, the term of office of collectors and the time of holding meetings of town board.

Became a law, May 20, 1908, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section one of chapter five hundred and ninety-four of the laws of eighteen hundred and ninety-eight, entitled "An act to provide for the holding of town meetings and elections in counties of the state having a certain population," is hereby amended to read as follows:

§ 1. The next town meeting or election at which town officers shall be elected in any county of the state having a population of over one hundred and fifty thousand and less than one hundred and sixty thousand inhabitants, according to the state enumeration next preceding the passage of this act, shall be held on the first Tuesday after the first Monday in November, in the year eighteen hundred and ninety-nine, and biennially thereafter at the same places as general elections in such towns are held. No person shall be entitled to vote at any such town meeting and election unless he is registered and entitled to vote at the general election held at the same time that such town meeting is held. All elective town officers shall be elected at such general election in the same manner and on the same ballot as other officers who may be elected thereat. Certificates of nomination of candidates for town office in any such towns shall be in duplicate, one of which shall be filed with the town clerk of the town, and the other with the clerk of the county wherein such town is located, and if nominated by a political party, at least twenty-five days and not more than thirty-five days before such town meeting and election is held, or, if independent nominations at least twenty days and not more than thirty-five days prior thereto. The ballots prepared by the county clerk shall include the names

of all candidates nominated for town offices in any such towns. The county clerk shall apportion to and charge the several towns in any of such counties with their respective proportionate shares of the expense of the preparation and distribution of such ballots.

§ 2. Section four of such act is hereby amended to read as follows:

§ 4. There shall be elected at the town meeting and election to be held in each town in any such county on the first Tuesday after the first Monday in the year eighteen hundred and ninety-nine, and biennially thereafter; one supervisor, one town clerk, three assessors, one or three commissioners of highways, one collector, one or two overseers of the poor, not more than five constables, and two inspectors of election for each election district, all of whom shall hold office for a term of two years beginning on the first day of January, nineteen hundred. There shall also be elected at such town meeting and election and biennially thereafter, two justices of the peace for terms of four years, beginning on the succeeding first day of January. Except that the collector elected at any such town meeting in nineteen hundred and eleven and biennially thereafter shall take office immediately upon his election and qualification as prescribed by law. But the collector in any such town for the current term shall complete the duties of his office in respect to the collection of taxes, and the payment and return thereof, upon any warrant received by him during his term of office, notwithstanding the election of his successor.

§ 3. Section five of such act is hereby amended to read as follows:

§ 5. All town officers in each one of the towns in any such county, who receive or disburse any moneys of the town, shall, on the twenty-eighth day of December in each year, or on the day preceding when such day falls on Sunday, account with the town boards of their respective towns, for all such moneys received and disbursed by them by virtue of their office, and produce all receipts, orders and vouchers which they may have respecting the same, but no member of the board shall sit as a member of the board when any account in which he is interested is being audited by the board. The board shall make a statement of such accounts, and append thereto a certificate signed by at least a majority of them, showing the state of the accounts of each officer at the date of the certificate, which statement, certificate, receipts, orders and

vouchers shall each be filed with the town clerk of the town, within three days thereafter, and be open to public inspection during the office hours of such town clerk. Other meetings of the town board shall be held as provided by the town law.

§ 4. This act shall take effect immediately.

Chap. 433.

AN ACT to amend the state charities law, relating to the appointment and removal of managers or trustees of state charitable and reformatory institutions.

Became a law, May 20, 1908, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Article three of chapter five hundred and forty-six of the laws of eighteen hundred and ninety-six, entitled "An act relating to state charities, constituting chapter twenty-six of the general laws," as amended by chapter two hundred and fifty-two of the laws of nineteen hundred and two and chapter four hundred and seventy-three of the laws of nineteen hundred and three and chapter six hundred and eighty-five of the laws of nineteen hundred and six and chapter two hundred and eighty-three of the laws of nineteen hundred and seven, is hereby amended by the addition of the following section:

§ 50-a. **Appointment and removal of managers or trustees.**— Each of the state charitable and reformatory institutions and the state school for the blind shall be under the control and management of boards of seven managers to be appointed for each institution by the governor by and with the advice and consent of the senate. The terms of office of said managers shall be five years and they shall be so appointed that the terms of at least one of the members of each board shall expire on the first Tuesday of February of each year. All vacancies shall be filled by the governor and the person appointed to fill a vacancy in the board of managers of any institution shall hold office for the remainder of the term of the person whom he succeeds. In the discretion of the governor persons of either sex may be appointed as managers of such

institutions. Such managers shall serve without compensation but shall be entitled to their actual and necessary traveling expenses in attending meetings of the boards of which they are members. The governor shall have power to remove any member or members of a board of managers for cause after an opportunity to be heard. Managers and trustees now serving as members of boards which have more than seven members may be continued in office until the expiration of the term for which they were appointed but no new appointments shall be made to such boards until their membership is reduced to less than seven. Boards now consisting of less than seven members shall be enlarged by additional appointments to be made before the end of the fiscal year. All persons now serving as members of boards of managers or trustees of the state charitable and reformatory institutions shall be eligible to reappointment as managers or trustees, at the discretion of the governor.

§ 2. This act shall take effect immediately.

Chap. 434.

AN ACT to provide ways and means for the annual contribution to the highway improvement sinking fund.

Became a law, May 20, 1908, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The sum of fifty thousand dollars, or such amount as will be sufficient to provide a sum equal to the proceeds of a state tax of fifty-five ten-thousandths of a mill on each dollar of real and personal property of the state subject to taxation, is hereby appropriated from the general fund as the annual contribution for the fiscal year commencing October first, nineteen hundred and eight, to the highway improvement sinking fund created under article seven, section twelve of the constitution and pursuant to the provisions of chapter four hundred sixty-nine of the laws of nineteen hundred and six.

§ 2. The sum of four hundred thousand dollars is hereby appropriated from the general fund as the annual contribution for the fiscal year commencing October first, nineteen hundred and eight, to the highway improvement sinking fund created under

article seven, section twelve of the constitution and pursuant to the provisions of chapter four hundred sixty-nine of the laws of nineteen hundred and six as amended by chapter seven hundred and eighteen of the laws of nineteen hundred and seven, said amount being in lieu of a direct state tax on the real and personal property of the state subject to taxation.

§ 3. This act shall take effect immediately.

Chap. 435.

AN ACT making an appropriation for the payment of interest on the debt for highway improvement contracted or to be contracted under article seven, section twelve of the constitution, and as provided by law, for the fiscal year beginning on the first day of October, nineteen hundred and eight.

Became a law, May 20, 1908, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The sum of four hundred and thirty thousand dollars is hereby appropriated from the sinking fund now or which may hereafter be created by law for the payment of interest on the debt for highway improvement contracted or to be contracted under article seven, section twelve of the constitution, and as provided by law, as the same shall become due and payable during the fiscal year beginning on the first day of October, nineteen hundred and eight.

§ 2. This act shall take effect immediately.

Chap. 436.

AN ACT making an appropriation for highway improvement purposes.

Became a law, May 20, 1908, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The sum of one million dollars to become immediately available, and the further sum of two million dollars to

become available on the first day of October, nineteen hundred and eight, are hereby appropriated, payable out of moneys realized from bonds issued in accordance with the provisions of chapter four hundred and sixty-nine of the laws of nineteen hundred and six, as amended by chapter seven hundred and eighteen of the laws of nineteen hundred and seven. The moneys hereby appropriated shall be expended for the improvement of public highways, in accordance with the provisions of chapter one hundred and fifteen of the laws of eighteen hundred and ninety-eight and the acts amendatory thereof and supplemental thereto.

§ 2. This act shall take effect immediately.

Chap. 437.

AN ACT to amend the tax law, relative to the preparation of assessment-rolls.

Became a law, May 20, 1908, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section twenty-one of chapter nine hundred and eight of the laws of eighteen hundred and ninety-six, entitled "An act in relation to taxation, constituting chapter twenty-four of the general laws," as amended by chapter seven hundred and twelve of the laws of eighteen hundred and ninety-nine and chapter one hundred and fifty-nine of the laws of nineteen hundred and one, is hereby amended to read as follows:

§ 21. **Preparation of assessment-roll.**— They shall prepare an assessment-roll containing nine separate columns and shall, according to the best information in their power, set down:

1. In the first column the names of all the taxable persons in the tax district.

2. In the second column the quantity of real property taxable to each person with a statement thereof in such form as the commissioners of taxes shall prescribe.

3. In the third column the full value of such real property.

4. In the fourth column the full value of all the taxable personal property owned by each person respectively after deducting the just debts owing by him.

5. In the fifth column the value of taxable rents reserved and chargeable upon lands within the tax district, estimated at a principal sum, the interest of which, at the legal rate per annum, shall produce a sum equal to such annual rents and if payable in any other thing except money the value of the rents in money to be ascertained by them and the value of each rent assessed separately, and if the name of the person entitled to receive the rent assessed cannot be ascertained by the assessors, it shall be assessed against the tenant in possession of the real property upon which the rents are chargeable.

6. In the sixth column the value of the special franchise as fixed by the state board of tax commissioners.

7. In the seventh column the total value of the property above enumerated which is included within an incorporated village.

8. Such assessment-roll shall contain two additional columns in one of which shall be inserted the amount of the tax levied against each person named therein, and in the other the date of the payment of such tax.

§ 2. This act shall take effect immediately.

Chap. 438.

AN ACT to amend the county law, in relation to supervisors in the counties of Schenectady and Steuben.

Became a law, May 20, 1908, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section twenty-three of chapter six hundred and eighty-six of the laws of eighteen hundred and ninety-two, entitled "An act in relation to counties, constituting chapter eighteen of the general laws," as amended by chapter seven hundred and twenty-four of the laws of eighteen hundred and ninety-three, chapter four hundred and eighty of the laws of eighteen hundred and ninety-five, chapter five hundred and twenty-nine of the laws of nineteen hundred, chapter twenty of the laws of nineteen hundred and five and chapter four hundred and eighty-two of the laws of nineteen hundred and seven, is hereby amended to read as follows:

§ 23. **Compensation of supervisors.**— For the services of supervisors, except in the counties of Albany, Broome, Columbia, Erie, Montgomery, Niagara, Oneida, Onondaga, Rensselaer, Schenectady, Steuben and Westchester, each supervisor shall receive from the county compensation at the rate of four dollars per day for each calendar day's actual attendance at the sessions of their respective boards, and mileage at the rate of eight cents per mile, for once going and returning from his residence to the place where the sessions of the board shall be held, by the most usual route, for each regular and special session. In the counties of Niagara, Schenectady and Steuben each supervisor shall receive an annual salary, in the county of Niagara of three hundred, in the county of Schenectady of five hundred dollars and in the county of Steuben of one hundred and fifty dollars in lieu of any per diem compensation. Each supervisor, except in the counties of Albany, Broome, Columbia, Erie, Montgomery, Niagara, Oneida, Onondaga, Rensselaer, Schenectady, and Westchester may also receive compensation from the county at the rate of four dollars per day while actually engaged in any investigation or other duty, which may be lawfully committed to him by the board; except for services rendered when the board is in session, and, if such investigation or duty require his attendance at a place away from his residence, and five miles or more distant from the place where the board shall hold its sessions, his actual expenses incurred therein. No other compensation or allowance shall be made to any supervisor for his services, except such as shall be by law a town charge, except that in the county of Niagara each supervisor, while heretofore or hereafter actually engaged in any investigation, or in the performance of any other duty, which shall have been legally delegated to him by the board of supervisors, except when the board is in session, shall be entitled to receive in addition to the compensation hereinbefore provided, his actual expenses incurred therein. The board of supervisors of any county may also allow to each member of the board for his services in making a copy of the assessment-roll, three cents for each written line for the first one hundred lines, two cents per line for the second hundred written lines, and one cent per line for all written lines in excess of two hundred, and one cent for each line of the tax roll actually extended by him.

§ 2. This act shall take effect immediately.

Chap. 439.

AN ACT to generally amend chapter eight, part three, title sixteen of the revised statutes, known as the drainage law.

Became a law, May 20, 1908, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section nine of title sixteen, chapter eight, part three of the revised statutes, known as the drainage law, is hereby amended so as to read as follows:

§ 9. **Acquisition of title by commissioners.**—Any person whose land is taken in the construction of any such ditch or channel shall be paid by said commissioners on or before the commencement of the work, the value of the land so taken, and such other injuries as the party may sustain; and if the commissioners cannot agree with any person upon the compensation and damages for making and maintaining forever such ditches or channels, the said commissioners shall proceed to acquire title to the said easement upon and across the land of such person in the manner, so far as the same is applicable, prescribed by chapter one hundred and forty of the laws of eighteen hundred and fifty, entitled "An act to authorize the formation of railroad corporations and to regulate the same," and the acts supplemental and amendatory thereto; and for the purpose of acquiring such easement under the statute last mentioned such commissioners are hereby granted the powers therein granted to a railroad corporation, so far as is necessary to acquire title to said easement and no further. The easements over and upon all lands included in or affected by the work determined upon by the commissioners may be obtained by one proceeding under this section. In case said commissioners become satisfied before the easements and rights for the maintaining forever of any or all of the ditches or drains previously determined by them to be necessary for the drainage of the lands, as hereinbefore provided, have been fully acquired, that part of such drains are no longer necessary for the public health they may, with the consent in writing of the owners of the land whereon the same are located, abandon the said drains, so deemed by them to be unnecessary for the public health, and

they shall thereupon make a certificate in writing setting forth and describing the ditches and drains so to be abandoned, and file the same in the county clerk's office wherein their determination of the necessity of the draining such lands has been filed, and thereupon the said drains set forth and described in said last named certificate and any and all easements and rights to construct and maintain the same, shall be deemed to be forthwith abandoned and extinguished, but any costs and expenses previously incurred in connection with such drains so abandoned shall be assessed and collected as in this act provided.

§ 2. Section ten of title sixteen, chapter eight, part three of the revised statutes, known as the drainage law, as amended by chapter eight hundred and eighty-eight of the laws of eighteen hundred and sixty-nine, by chapter three hundred and three of the laws of eighteen hundred and seventy-one, by chapter six hundred and thirty-six of the laws of eighteen hundred and eighty-six, by chapter three hundred and twenty-one of the laws of eighteen hundred and ninety-two, and by chapter five hundred and twenty-three of the laws of nineteen hundred and one, is hereby amended to read as follows:

§ 10. **Assessment of cost upon municipalities and lands.**— The said commissioners shall, as soon as the said costs, expenses, land damages and compensation hereinbefore provided for can be determined and ascertained, make a complete and detailed statement thereof, including all the claims of said commissioners, which statement shall be duly verified by said commissioners or by a majority of them. They shall also, in case they have decided that the public health requires that such lands shall be drained, determine whether any, and if so, how much of the said sum shall be assessed to and paid by the incorporated village or villages, town or towns, or county in which the said lands are situated, and whether the same shall be paid in one assessment or in annual installments, not exceeding thirty in all; the remainder, or in case they shall determine that no portion of said sum shall be paid by said village or villages, town or towns, or county, then all of said sums shall be apportioned among the several owners or occupants of such of the lands included in the said map or adjacent thereto, as they shall deem to be directly benefited by said drainage, in proportion to the amount of benefit which each receives therefrom, and they shall in like manner determine whether said sum so apportioned shall be paid in one assessment, or in an-

nual installments, as above provided in reference to assessments to be paid by a village, town or county; provided, however, that the board of supervisors of any such county, the town board of any such town, the board of trustees of any such village, or any such owner or occupant of lands upon which, or to whom said sum or any part thereof is apportioned, may elect to pay the whole of their said apportionment or the portion thereof at any time remaining unpaid in one assessment instead of in installments as above provided. The several amounts so adjudged shall constitute liens upon the respective tracts until paid or otherwise removed with interest from the service of notice of such decision of said commissioners as hereinafter provided, that no portion of the costs, expenses, land damages and compensation provided for in and by this act as hereby amended shall be assessed to or paid by any incorporated village or villages, town or towns, or county in which the lands so to be drained are situated, unless a majority of the board of trustees in case of a village; a majority of the town board in case of a town; and a majority of the board of supervisors in case of a county shall have joined in the petition required by the first section of said act as hereby amended. Except, however, that in any case where under the provisions of this act a petition shall have heretofore been or hereafter be presented by the supervisor of a town on behalf of such town, as provided in the first section of this act, in which petition no other member of the town board shall have joined, the said commissioners shall, in case they have decided that the public health requires the drainage of the land, upon the consent of a majority of the town board of such town, manifested by the adoption of a resolution to that effect, in such case determine whether any, and if so, how much of said sum so ascertained for costs, expenses, land damages and compensation shall be assessed to and paid by such town, and thereupon the amount so determined to be paid by such town shall be assessed upon and paid by such town in one assessment or in annual installments as such commissioners shall determine. The said commissioners shall file in each clerk's office in which their determination of the necessity of draining such lands or duplicate thereof, as provided by section five of this act as hereby amended, is required to be filed, a copy of the said statement and of the said determination, as to the village or town or county, in case there be any such, and of the said apportionment, and of the time and manner of pay-

ment thereof, certified by them, which, or a duly authenticated copy of which, may be received in evidence in any suit or proceedings in this state. They shall also cause notice, written or printed, to be given to each person whose lands are assessed by them, to pay any part of said sum, and also to the supervisor of any town or the president of any village, or the chairman of any board of supervisors of any county that may be assessed by them, which notice shall state the time and place of filing such statement and determination. The said notice shall be served personally upon such supervisor, president or chairman and also upon each person whose lands are so assessed, when he can be found with due diligence in a county in which such lands or a part thereof are situated, and when not so found, then by delivering such notice to some person of reasonable age and discretion, residing upon said premises, directed to the owner or occupant thereof, or if no such person be found residing upon said premises and such owner or occupant be not found, then by depositing such notice in the post-office duly enveloped and directed to such owner or occupant at his last known place of residence with the postage prepaid. A copy of such notice with the affidavit of the person who served the same, that he delivered the original to the person to whom it was addressed shall be evidence of such service. Any person deeming himself aggrieved thereby, or any such officer deeming his village or town or county aggrieved, may appeal from the decision of the said commissioners to the court in which such proceedings were instituted or are pending, for the correction of such assessment, provided he serves upon said commissioners notice of said appeal within ten days after the service upon him of the notice of filing such statement, and the party making the appeal shall, within ten days from the service of notice thereof on the commissioners, make a full statement of the grounds of his appeal setting forth the points on which he feels aggrieved by the determination of said commissioners, and file a certified copy thereof in the office of the clerk of the county in which such lands or a portion thereof affected by said proceedings are situated, and present the said statement to the court, and the court shall thereupon proceed without further delay than such as is necessary to give proper notice to the parties interested to hear and finally determine the appeal. The courts may award costs to the successful party on such appeal not exceeding fifteen dollars besides his necessary disbursements to be taxed by the clerk of the court.

§ 3. Title sixteen, chapter eight, part three of the revised statutes, known as the drainage law, is hereby amended by adding thereto after section thirty-seven thereof a new section to be section thirty-eight, to read as follows:

§ 38. The owner of any lands lying wholly or partly within an incorporated village and which are subject to easements for the public use for the maintenance of drains, ditches or channels which have been or shall be hereafter constructed under this act or any special act, who shall desire to improve such lands by laying out streets and lots for building purposes may present to the water commissioner having the charge and supervision of such drains, ditches or channels a verified petition for the amendment of the plan according to which said drains, ditches and channels shall have been constructed and a modification of said easements. The said petition shall contain a description of the lands of the petitioner over and upon which easements for the maintenance of ditches and drains have been acquired and shall be accompanied by a map showing the existing drains, ditches and channels upon the petitioner's lands and a second map or plan (hereinafter called the new map) which shall fully show and describe all the ditches, drains and channels which are to be maintained through said lands when the proposed changes shall have been made and shall describe and show the form and manner of construction thereof and the nature and character of materials to be used in any new construction; and all streets or highways existing or to be opened over and upon such lands and said new map shall conform in all particulars to the requirements contained in section six of this act. The said maps shall be prepared by a competent civil engineer upon such data as may be obtained from the maps and plans according to which said existing drains, ditches and channels were or shall have been constructed and such additional surveys and levels to be made or taken by said engineer as may be required and the said engineer shall certify that the proposed changes will not according to his best knowledge and belief impair the existing drainage for the public use. The changes hereby authorized may include the change of the form and manner of construction of any ditch or drain, the substitution of a covered or closed drain for an open ditch or drain, the change of the line or course of any ditch or drain and the abandonment of lateral or subsoil pipes, ditches or drains the necessity for which is to be obviated by filling the lands to a

proper depth. Any drains or ditches intended to be discontinued shall not be shown on said new map. If the water commissioner to whom such petition is presented shall be satisfied that the drainage for the public use will not be impaired by the proposed changes he may approve of such proposed new plan or map and shall in such case certify his approval in writing and file said petition, maps and certificate in the office of the clerk of the county wherein the lands described in the petition are situated; provided, however, that the said water commissioner shall not approve said new map or plan unless the same shall have been previously approved by a majority of the board of trustees of the village in which all or any portion of the said drains, ditches and channels to be affected by the proposed change are located. The petitioner may thereafter proceed to construct at his own cost and expense the new drains and ditches and to fill in the lands in accordance with the new map so approved by the water commissioner and upon the completion of the work and in case the drains and ditches upon the lands of the petitioner and which are shown upon said new map or plan shall then prove to be sufficient and proper for the public use and necessity for which the easements were originally acquired without the continuance of the ditches, drains and pipes intended to be superseded and discontinued by such plan and not shown thereon the petitioner, his heirs and assigns shall be entitled to and the water commissioner shall issue to him or to them a certificate to the foregoing effect and such certificate shall thereupon be filed in the said clerk's office with said petition, maps and certificate of approval. Upon such filing the easements for the public use in all drains, ditches and channels upon the petitioner's said lands now shown upon said new map shall be extinguished and corresponding easements of the same nature, quality and duration shall be acquired for the public use for the maintenance of the new ditches, drains and channels constructed by the petitioner and shown and described on said new map. The petitioner shall be responsible for all damages he may cause by carelessness or negligence in making the changes authorized as above provided and the water commissioner may require reasonable security for the payment of such damages as a condition of his approval of the proposed changes.

§ 4. This act shall take effect immediately.

Chap. 440.

AN ACT authorizing the commissioners of the land office to convey a lot of land forming part of the grounds of the athletic field of the State Normal School at Cortland to the Cortland and Auburn Railroad Company, for railroad purposes.

Became a law, May 20, 1908, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The commissioners of the land office are hereby authorized, upon application therefor being filed with them by the board of directors of the Cortland and Auburn Railroad Company, and with the approval of the commissioner of education to grant and convey to said railroad company, for a consideration to be agreed upon between said railroad company and the said commissioners of the land office, with a provision in said conveyance providing for a reversion of title to the state when the premises hereinafter mentioned shall cease to be used for railroad purposes, all of the right, title and interest of the state in and to all that tract, piece or parcel of land, being a part of the present athletic field of the State Normal School at Cortland, in the city and county of Cortland, and being part of great lot number seventy-four, more particularly described as follows: Beginning at a point on the division line between said great lot number seventy-four and great lot number seventy-five, sixty feet southerly from the southeast corner of land conveyed to David Yates by deed dated the third day of May, eighteen hundred and eighty-two; thence northerly sixty feet to said southeast corner of David Yates' land; thence westwardly along the south side of said Yates' land two hundred and eighty-eight feet to the east side of Owego street; thence southwestwardly along the said east side of Owego street one hundred and seventy-five feet to a point; thence northeastwardly about three hundred and fifty feet to the place of beginning, containing eight thousand two hundred and thirty-six ten thousandths of an acre, more or less.

§ 2. This act shall take effect immediately.

Chap. 441.

AN ACT to repeal title eleven of chapter eighteen of the laws of eighteen hundred and sixty-two, entitled "An act to revise the charter of the city of Utica," creating the town of Utica and a board of town auditors, and the acts amendatory thereof; also chapter five hundred and forty-six of the laws of eighteen hundred and seventy-four, entitled "An act to provide for the safe-keeping of the money raised for the payment of town expenses in the city of Utica."

Became a law, May 20, 1908, with the approval of the Governor. Passed, three-fifths being present.

Accepted by the City.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Title eleven of chapter eighteen of the laws of eighteen hundred and sixty-two, entitled "An act to revise the charter of the city of Utica," creating the town of Utica and a board of town auditors, as amended by chapter ninety-nine of the laws of eighteen hundred and eighty-one, as amended by chapter eight hundred and sixty-nine of the laws of eighteen hundred and ninety-six; also chapter five hundred and forty-six of the laws of eighteen hundred and seventy-four, entitled "An act to provide for the safe-keeping of the money raised for the payment of town expenses in the city of Utica," are hereby repealed.

§ 2. This act shall in no way impair or affect any contract or obligation heretofore assumed or incurred by the town of Utica, nor shall it impair or affect any obligation or contract made in favor of the town of Utica with any person or corporation, but such contracts shall remain in full force and shall be assumed or enforced by the city of Utica with the same force and effect as though such contract were originally made with the city. All contracts or obligations of any kind or nature heretofore made or incurred by the town of Utica are hereby assumed by the city of Utica, and any claim, property right, or right of action heretofore existing in favor of the town of Utica shall inure to and be enforced by the city of Utica. All duties heretofore performed by any officer or officers of the town of Utica shall hereafter be performed by the proper officers and departments of the city of Utica.

§ 3. This act shall take effect immediately.

Chap. 442.

AN ACT to amend the labor law, relative to the time when wages are to be paid.

Became a law, May 20, 1908, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section ten of chapter four hundred and fifteen of the laws of eighteen hundred and ninety-seven, entitled "An act in relation to labor, constituting chapter thirty-two of the general laws," is hereby amended to read as follows:

§ 10. **When wages are to be paid.**— Every corporation or joint stock association, or person carrying on the business thereof by lease or otherwise, shall pay weekly to each employee the wages earned by him to a day not more than six days prior to the date of such payment. But every person or corporation operating a steam surface railroad shall, on or before the first day of each month, pay the employees thereof the wages earned by them during the first half of the preceding month ending with the fifteenth day thereof, and on or before the fifteenth day of each month pay the employees thereof the wages earned by them during the last half of the preceding calendar month.

§ 2. This act shall take effect October first, nineteen hundred and eight.

Chap. 443.

AN ACT to amend the labor law, in relation to cash payment of wages by corporations engaged in harvesting and storing ice.

Became a law, May 20, 1908, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section nine of chapter four hundred and fifteen of the laws of eighteen hundred and ninety-seven, entitled "An act in relation to labor, constituting chapter thirty-two of the general laws," as amended by chapter three hundred and sixteen

of the laws of nineteen hundred and six, is hereby amended to read as follows:

§ 9. **Cash payment of wages.**— Every manufacturing, mining, quarrying, mercantile, railroad, street railway, canal, steamboat, telegraph and telephone company, every express company, every corporation engaged in harvesting and storing ice, and every water company, not municipal, and every person, firm or corporation, engaged in or upon any public work for the state or any municipal corporation thereof, either as a contractor or a subcontractor therewith, shall pay to each employee engaged in his, their or its business the wages earned by such employee in cash. No such company, person, firm or corporation shall hereafter pay such employees in script, commonly known as store money-orders. No person, firm or corporation engaged in carrying on public work under contract with the state or with any municipal corporation of the state, either as a contractor or subcontractor therewith, shall, directly or indirectly, conduct or carry on what is commonly known as a company store, if there shall, at the time be any store selling supplies, within two miles of the place where such contract is being executed. Any person, firm or corporation violating the provisions of this section shall be guilty of a misdemeanor.

§ 2. This act shall take effect immediately.

Chap. 444.

AN ACT in relation to registering titles to real property and facilitating and expediting its transfer.

Became a law, May 20, 1908, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. **Short title.**— This act is to be known, and may be cited, as "the land title registration law."

§ 2. **Application to register title to real property.**— Real property, or any estate, interest, or right therein, the title to which is hereby authorized to be registered, may be brought under the operation of this act by the filing of a complaint, verified as prescribed by the code of civil procedure and praying for registration, with the officer hereinafter described as the "registrar," of the county in which the land, or some portion thereof, is situated.

The application may be so made in person by the owner or owners of such property, estate, interest, or right, or by an attorney at law duly authorized so to do. A corporation may also apply by its duly authorized officer or agent. An infant or other person under disability may apply by his legally appointed guardian, or trustee, or committee. The natural person or corporation, in whose behalf the complaint is filed may be known, and is treated in this act, as the applicant, or plaintiff. The complaint so filed may be known, and is treated in this act, as the application.

§ 3. **Applications and proceeding to be in the supreme court; title part of special term.**— The application for registration must be made to the supreme court; and for that purpose said court shall be always open; and its orders, judgments and decrees in cases coming under this act may be made and entered as well in vacation as in term time. The proceedings upon such applications shall have the effect of proceedings in rem against the land, and the judgments shall operate directly on the land and vest and establish title thereto. An issue raised in such a case shall be tried at a special term of said court, in the county in which the application is filed, by the court or a referee, except that an issue of fact may be tried by a jury, in the manner prescribed by the constitution and code of civil procedure. When in any county the amount of business under this act makes it necessary or proper that one or more justices of said court should devote his or their entire time to such business, the appellate division of the judicial department in which such county is situated shall designate as many justices as may be deemed necessary, to constitute the "title part" of the special term in that court; said appellate division may provide by rules of practice for the conduct, in said title part, of the business coming under this act in such county. Said appellate division may assign one or more additional justices to said "title part" of the special term, or withdraw one or more justices therefrom, as the business coming under this act and the availability of the supreme court justices may require and make proper. One of the justices so assigned to the "title part" of the special term in any county shall be designated by said appellate division to have general supervision and control of the business coming under this act in that county.

§ 4. **County clerks and registers to be registrars of title.**— County clerks in the several counties of the state, except the counties that may have registers, and in the latter counties the registers of said counties shall be "registrars" of titles in their re-

spective counties. All laws relative to registers, county clerks and their deputies shall extend to registrars and their deputies, so far as the same may be applicable, except as in this act otherwise provided. Registrars of titles shall be county officers, within the meaning of the laws of this state.

§ 5. **Registrar's bond.**—Every registrar, before entering upon his duties as registrar, shall give a bond with sufficient security, to be approved by a justice of the supreme court, payable to the people of the state of New York, in a penal sum the same as that for his bond as register or county clerk, conditioned for the faithful discharge of his duties, and to deliver up all papers, books, records and other property belonging to the county or appertaining to his office as registrar of titles, whole, safe and undefaced, when lawfully required so to do, which bond shall be filed in the office of the secretary of state.

§ 6. **Deputy registrars' powers and duties.**—In any county where the business under this act so requires, the registrar may appoint a chief deputy and as many other deputies as are needed. But no one, unless he is also a deputy register or a deputy county clerk, shall be appointed as such deputy registrar unless he is an "official examiner of title" as described and required by section nine of this act. Deputies may perform any and all duties of the registrar in the name of the registrar, and the acts of such deputies shall be held to be the acts of the registrar, and in case of the death of the registrar, or his removal from office, the chief deputy shall thereupon become the acting registrar until such vacancy shall be filled according to law, and he shall file a like bond and be vested with the same powers and subject to the same responsibilities and entitled to the same compensation as in the case of the registrar.

§ 7. **Compensation of registrars and deputy registrars and registration clerks.**—Where county clerks and registers are already salaried officials, the local authorities (county officials who provide for county expenses) shall fix their additional compensation as registrars, also the compensation of deputy registrars, the clerks, et cetera, needed to carry on the work under this act. Where a county clerk or a register is compensated directly by the fees paid to himself, his deputies and assistants, the fees paid to him as registrar shall take the usual course and be used to compensate deputies, clerks, et cetera, at such rates as the registrar may fix, the remainder to belong to him.

§ 8. **Disposition and use of fees received by registrar.**— All fees received by a registrar, for the performance of the duties devolving upon him pursuant to this act, shall be disposed of in such manner as the other fees paid to county clerks and registers, with the following proviso: In those counties where registrars under this act are or shall become salaried officials, all fees paid for the registration of titles shall be kept separate by the registrars and serve, so far as they are necessary or adequate, to pay the expenses of registering titles and the other duties for which charges are made. It shall be the duty of the local authorities who provide for county expenses to provide such accommodations, help, safes, books, papers and for such other expenses as may properly be required by the registrar in the conduct of his office.

§ 9. **Official examiners of title.**— Before application is made for the registration of a title, it must be thoroughly examined and certified by an "official examiner of title." A person duly admitted to practice as an attorney and counsellor-at-law in the courts of record of this state, or a corporation duly incorporated under and by virtue of the laws of this state, and by said laws duly authorized to guarantee or insure titles to real property in this state, and no other person, corporation, or institution, may be admitted to the office or position of, and licensed to practice as, an official examiner of title. The court of appeals shall prescribe rules providing for the methods of ascertaining the fitness of individual applicants for license to practice as such examiners, and in doing so, shall take into account the length of time during which applicants have practiced law and the amount of work that they have done in the examination of titles to real property. In the case of experienced examiners of such titles, provision may be made for licensing them, without examination, to practice as "official examiners of title." After complying with the rules and requirements prescribed by the court of appeals pursuant to this section, an individual applicant may be licensed and admitted to practice as an official examiner of title in this state, by an order of the appellate division of the supreme court of the department in which he resides, or in which he has an office for the regular practice of law. He may be required to give such a bond as the court may prescribe. A corporation may be licensed and admitted to practice as an official examiner of title by an order of the appellate division of the supreme court of the department in which it has its principal place of business, which order shall

be made on the certificate of the proper state official that such corporation is duly incorporated under and by virtue of the laws of this state, and by said laws authorized to guarantee or insure titles to real property within this state. Any official examiner of title in counties not exceeding three hundred thousand inhabitants may base the certificate and affidavits required by this act, upon searches and abstracts of title made by a corporation duly organized under and by virtue of the laws of this state, and by said laws duly authorized to make and to certify to searches and abstracts of title, provided, however, that said abstract company shall have been incorporated for a period of at least two years before the passage of this act.

§ 10. **What owners may apply; what titles may be registered.** — Application for registration of title may be made by the following persons:

First. The person or persons who claim, singly or collectively, to own in fee simple the legal estate in land, or in some right in or over land, and who hold and possess such land or such right.

Second. The person or persons who claim, singly or collectively, to own a contract for the purchase in fee simple of the legal estate in land, or in some right in or over land, from the owner thereof.

Third. The person or persons who claim, singly or collectively, to have the power of appointing or disposing in fee simple of the legal estate in land, or in some right in or over land. No title to a mortgage, lien, trust, charge or estate less than a fee simple shall be registered, unless the title to the legal estate in fee simple in the same property is first registered. When the application is made by the holder of a contract to purchase, it shall refer to the ownership of the proposed vendor, and to the contract of purchase and sale. Registration in the name of the holder of the contract shall not be made, except on the production of a proper transfer of title under and pursuant to the contract, or the consent in writing, duly acknowledged, of the proposed vendor named in the contract and his wife, if he be married. Such transfer or consent may be made after the commencement of the registration proceedings or action. It shall not be an objection to bringing real property under this act that the estate or interest of the applicant is subject to any outstanding lesser estate, mortgage, trust, charge, or other lien or right. But any such lesser estate, mortgage, trust, charge, or other lien or right shall be duly noted on the certificate of registration when issued.

§ 11. **Contents of application for registration; other papers to be filed.**— The application for registration shall be made by filing a complaint, as required by section two of this act. Except as otherwise specified herein, the complaint (and the summons in the action) shall name as parties to the action all persons having or claiming any right or interest in or lien upon the property, or any part thereof, as shown by the examiner's certificate of title hereinafter described, and such additional parties as may be designated by the court in its order directing the issuance and service of the summons, and the complaint and summons shall have the forms and effects prescribed for them by the code of civil procedure. The complaint shall set forth, in addition to any other proper allegations:

a. The name and post-office address of each of the plaintiffs, and when made by one acting in behalf of another, the name and post-office address and capacity of the person so acting.

b. Whether or not each of the plaintiffs (except in case of a corporation) is married, and, if married, the name and post-office address of the husband or wife, and, if unmarried, whether he or she has been married, and if so, when and how the marriage relation terminated, and, if the marriage was terminated by annulment or divorce, when, where and by what court the annulment or divorce was granted, and for the misconduct, if any, of which party it was granted.

c. That each of the plaintiffs is of the full age of twenty-one years and free from any disability, or, if he is a minor or under disability, his age or the nature of such disability, and the authority of the person by whom his application is made.

d. The names and post-office addresses of the defendants (and whether or not any of them are infants or otherwise incapacitated) as far as known or reasonably ascertainable; a description of those whose names are unknown, as prescribed by section four hundred and fifty-one of the code of civil procedure; and a designation of all other possible owners and claimants of the property or any right or interest in or lien upon the property or any part thereof as "all other persons, if any, having any right or interest in or lien upon said property (herein described) or any part thereof." In addition to the defendants above specified, the complaint shall specifically name as defendants the people of the state of New York, and also all persons who have filed any caution or cautions against the registration of such property, as provided for by section fifteen of this act.

e. A proper reference to the official examiner's certificate of title; and to the survey, map or plan of the property; each of which is to be annexed as an exhibit to the complaint, and made and declared by the complaint to be a part thereof.

f. A statement, when such is the case, that the complaint is made by, or on behalf of, the owner of a contract to purchase said property.

g. A prayer that the title be duly registered, as belonging to and vested in the plaintiff or plaintiffs, or as the facts may require at the time of such registration, in the manner set forth in the said certificate of title or otherwise; and that the court may order the issuance of the summons and service of the summons and the proper notice, as hereinafter directed, on all the defendants who have not duly appeared in the action. The court may require additional facts to be stated in the complaint, and may require the filing of any additional paper or evidence. It may also require the complaint to be amended and reverified as the circumstances of the case may demand or make proper.

§ 12. **Examiner's certificate of title; other evidences of title.**— The official examiner's certificate of the title referred to in section eleven shall accompany the complaint as an exhibit, and be made a part thereof. An individual examiner, who makes the certificate, shall annex thereto his affidavit that the same is true in every particular, to the best of his knowledge and belief, and that he has employed all usual means and methods for ascertaining the truth thereof, and all the facts and circumstances affecting and concerning the title to said property. A corporate official examiner, that makes the certificate, shall annex thereto its policy of guarantee or insurance of the title as shown by the certificate, for an amount to be fixed by it and the plaintiff or plaintiffs, which amount shall not be less than the last valuation of the property or interest insured, for the purpose of local annual taxation, or its proper proportion thereof; which guarantee or insurance shall be made in favor of the plaintiff, and the people of the state of New York, and shall inure to the benefit of, and be recoverable upon by, any one who may be injured in any way within ten years after the filing of said policy of guarantee or insurance, because of any error, fraud, omission or misdescription in said certificate. Said official examiner's certificate shall set forth the exact state and condition of the title sought to be registered in the action, and the names and post-office addresses as far as known or reasonably ascertainable, and the rights or interests, or claimed rights or inter-

ests, of the plaintiff and all other persons having or claiming any rights or interests in or liens upon said property or any part thereof, and the names and post-office addresses of the owners in fee simple of the surrounding contiguous properties, as far as they are known or can be reasonably ascertained by inquiry on said properties; and, as to actual or possible owners or claimants of the property sought to be registered, not known or not found, it shall state fully what search and efforts have been made to find them. All possible owners and claimants of the property sought to be registered, or any right or interests therein or lien thereon, or in or on any part thereof, who cannot be otherwise described, shall be designated in the certificate, and in the summons and complaint, by the expression, "all other persons, if any, who have any right or interest in or lien upon said property or any part thereof." By the statements of fact contained in said certificate of title, or by separate accompanying affidavits, or by any other or additional evidence, if necessary, stating the facts, or by any or all of these, sufficient facts must be shown to satisfy the court that all owners and claimants of the property sought to be registered, or of any right or interest in or lien upon the same or any part thereof, who could be found by diligent inquiry are duly and specifically named and made parties to the action. The question of the sufficiency of the proof that all such owners and claimants who could be found by diligent inquiry are duly and specifically named and made parties to the action shall be for the court; its decision that such proof is sufficient shall be shown by its making the order for the service of the summons and the commencement of the action as prescribed in this act, and such decision or order shall not be drawn in question after six months from the time when the final judgment in the action is entered. There shall be filed, with said certificate of title, the abstract of title and the searches made or used by the official examiner in the process of his work of examining the title; also all the other proper evidences of the due examination of the title, and all original muniments of title within the plaintiff's control. Such original muniments of title as affect land not included in the action may be withdrawn upon filing certified copies thereof. After final judgment, or other termination of the action, the plaintiff or other owner may, with the consent of the court, withdraw original muniments of title, abstracts, or searches. The examiner's certificate of title shall contain a short form of description of the property, the title to which is sought to be registered, which form is to be used in the

notice to accompany and be served with the summons, as provided by section eighteen of this act. The court shall approve of such form before it is used in said notice, and such approval shall be shown by the making of the order for the service of the summons and notice. Said examiner's certificate shall contain, or be accompanied by, any other or further information that the court may prescribe. The first part of said certificate shall be a summary of the results thereby shown, which summary shall briefly set forth the exact state of the title to said property. Said certificate shall be substantially in the form set out in "Schedule A" of this act, with such additions or modifications as the court may order.

§ 13. **Survey, map, or plan to be filed.**— There shall be filed with the complaint and annexed thereto as an exhibit and made a part thereof, the survey, map or plan of the land referred to in section eleven of this act, which shall be made by a competent surveyor approved by the court, and which shall clearly show the exact boundaries of the land and its connection with adjacent lands and any adjoining or neighboring streets and avenues, and all encroachments, if any, and all other facts which are usually shown by accurate surveys. If any adjacent land is already registered, the survey so filed with the complaint must properly connect and harmonize with the survey of such previously registered land. There shall be attached to said survey, map, or plan, and filed with it, an affidavit of the surveyor by whom it was made, that it was made by him personally or under his immediate supervision and direction; that it is a survey, map or plan of the property described in the certificate of title of the examiner, and that according to the best of his knowledge and belief said property is included in the boundaries shown on such survey, map or plan, without any encroachments or improper erections, except as follows (stating and describing any encroachments or improper location of buildings, fences or other structures).

§ 14. **Notice of application and of pendency of action.**—At the time when the application for registration of any property is filed, the plaintiff shall also cause to be filed a notice thereof in the office of the county clerk of each county where the property is situated, which notice shall be made and filed in the manner prescribed by section sixteen hundred and seventy of the code of civil procedure, and shall be indexed against the names of the plaintiff and all known defendants except the owners of abutting properties, and shall constitute notice of the pendency of the

application, and of the action when the same is commenced, and shall be in all other respects the same as a notice of the pendency of an action under section sixteen hundred and seventy to sixteen hundred and seventy-four inclusive of the code of civil procedure, except that, if the application be dismissed, or the action discontinued, or in any way terminated other than by registration of the title, no order for the cancellation of such notice shall be made by the court until it is duly and fully proved to the court that the provisions of section forty-two of this act have been fully complied with and performed.

§ 15. **Filing of caution.**—Any person claiming to have any right or interest in or lien upon any real property or any part thereof, may file with the registrar a written notice, to be styled a "caution," that he requires written notice to be given to him of any application for the registration of the title of said real property. In such notice he shall show how he claims title, right, interest or lien, and shall give his own post-office address, and that of a person (who may be himself or not), upon whom the notice may be served. In case of any application to register said title, service of such notice shall be made within ten days after the application is filed, by mailing said notice securely inclosed in a post-paid wrapper and directed to the person indicated at the place named. A like cautionary notice may be required by the owner of any land, as to the registration of the title of any or all of the land abutting upon his land, with the like proceedings in all respects. There shall be kept by the registrar a locality index of the cautionary notices, in which the same shall be indexed under the name of the street or road upon which the property referred to in the notice abuts, or if it abuts upon none, under the name of the street or road which is nearest to it. In any place, however, where there is a land map giving sections and dividing the property into blocks, the index shall be made by section and block numbers, and as far as convenient, by the lot numbers.

§ 16. **Agent of nonresident applicant.**—If the applicant is not a resident of the state, he shall file with his application a paper appointing an agent residing in the state, giving his name in full and post-office address, and shall therein agree that the service of any legal process, in proceedings under or growing out of the application, shall be of the same legal effect, if made on the said agent, as if made on the applicant within the state. If the agent dies, or becomes incapacitated, or removes from the

state, the applicant shall forthwith make another appointment; and if he fails to do so within a reasonable time, the court may dismiss the application.

§ 17. **Commencement of the action.**— On the complaint and all the other papers and documents filed with the registrar in the making of the application for registration, the court shall determine whether or not the plaintiff appears to have a title that should be registered. For the purpose of arriving at such determination, the court may require a further examination of the title, to be made by the same examiner who has made the certificate, or by another official examiner, and it may also require a further or amended survey, or certificate, or additional affidavits, or any other proper evidence or proof. When the court is satisfied that the plaintiff appears to have a title that should be registered, it shall make an order directing that the action to register such title be commenced by the issuance of the summons, and the service of the summons and the notice required by section eighteen of this act. The summons shall be made and have the form, and it and said notice shall be served in the manner prescribed by the code of civil procedure for a summons in an action in the supreme court; except that, when service is directed to be made by publication, it shall be ordered to be made in only one newspaper designated by the court once a week for four successive weeks, and such service so made shall be complete at the end of twenty-eight days from and including the day of the first publication; and except further that any defendant on whom personal service is made without the state pursuant to such an order shall appear, answer, or demur within twenty-eight days after such personal service; and except further that an order for service of the summons and said notice shall be a court order, and the summons served pursuant thereto need not be accompanied by any notice except that prescribed and required by section eighteen of this act; and except further as otherwise provided herein. Before making an order for service of the summons and said notice by publication or other form of substituted service, the court must be satisfied by proof of the facts that the plaintiff has been or will be unable, with due diligence, to make personal service of the summons. The question of the sufficiency of such proof shall be for the court; and an allegation, in an affidavit or other duly verified statement recited in said order, that the plaintiff has been or will be unable with due diligence to make personal service of the summons, or that after dili-

gent inquiry a defendant remains unknown to the plaintiff or that the plaintiff is unable to ascertain whether the defendant is or is not a resident of the state, may be taken to be sufficient proof thereof. An order containing such a recital, and made on such proof, shall not be drawn in question after six months from the time when the final judgment in the action is entered. Service of the summons and said notice on the people of the state of New York shall be sufficiently made, by mailing a copy thereof securely inclosed in a postpaid wrapper, and directed to the attorney-general of the state of New York. The action shall be governed by, and shall proceed according to, the laws of this state and the rules of court, relative to an action in the supreme court, as far as the same are applicable and are not abrogated or modified by this act.

§ 18. **Notice of object of action; copy of complaint.**— The summons, however served, shall be accompanied by a notice, which shall state the object of the action and describe briefly, but plainly, the property, the title to which is sought to be registered. Said notice shall be approved by the court, and a copy thereof shall be annexed to the order directing the service of the summons and said notice. Said notice shall be as follows: "The object of this action is to register and confirm the title of (name or names and post-office address of plaintiff in full) in the following described property (description as approved by the court)." A copy of the complaint may be demanded by the attorney of any defendant, and if so demanded must be served, as prescribed by section four hundred and seventy-nine of the code of civil procedure.

§ 19. **Summons and notice to be posted on the land.**—A copy of the summons and notice of object of action, as above described, shall be posted in a conspicuous place on each parcel of land included in the action, at least forty days before application is made for judgment in the action. The affidavit of the person by whom such posting is made shall be conclusive proof that such notice was posted in a conspicuous place, and shall be filed with the application for the judgment or before the judgment is entered.

§ 20. **Guardian ad litem.**—After service of the summons on all of the defendants is complete, if it appears from any of the papers in the case that any one or more of them are infants or otherwise incapacitated, the court shall make an order appointing a disinterested attorney, other than the examiner by whom

the title was examined and certified, to act as guardian ad litem for all minor parties to the action and for all parties under disability. It shall be his duty actively to ascertain and protect as far as is reasonably possible, the interests of all parties to the action known to be or possibly incapacitated. The compensation of such guardian shall be determined by the court and paid by the plaintiff.

§ 21. **Any person interested may appear and defend.**— Any person interested in the property, or whose interests may be affected by the judgment in the action, whether specifically named as defendant or not, may enter his appearance and answer the complaint, within the time allowed by this act, or such further time as shall be allowed by the court, and may oppose the application for registration of the property as belonging to the plaintiff, or set up a cross-demand to have the title registered in his own behalf. In either case, he shall state particularly what his interest is and answer the material allegations of the complaint.

§ 22. **Title in lands vested; clouds thereon removed.**— In any action under this act, the court may find and decree in whom the title to or any right or interest in the property or any part thereof is vested, whether in the plaintiff or in any other person, and may remove clouds from the title, and may determine whether or not the same is subject to any lien or incumbrance, estate, right, trust or interest, and may declare and fix the same, and may direct the registrar to register such title, right, or interest, and in case the same is subject to any lien, incumbrance, estate, trust or interest, may give directions as to the manner and order in which the same shall appear upon the certificate of title to be issued by the registrar, and generally in such an action, the court may make any and all such orders and directions as shall be according to equity in the premises and in conformity to the principles of this act. But no judgment of registration of a title shall be made or entered until proof is duly made in the action that all taxes, water rents and assessments on the property, right or interest the title to which is so registered, have been fully paid and discharged, unless the court directs the title to be registered subject to any such tax, water rent or assessment, which said tax, water rent or assessment must then be noted on the certificate of registration.

§ 23. **Judgments and orders conclusive.**— No judgment of registration shall be made, unless the court is satisfied that the title to be registered accordingly is free from reasonable doubt.

The judgment and any order made and entered in an action under this act shall, except as herein otherwise provided, be forever binding and conclusive upon the state of New York and all persons in the world, whether mentioned and served with the summons and said notice specifically by name, or included in the description, "all other persons, if any, having any right or interest in or lien upon said property or any part thereof." It shall not be an exception to such conclusiveness that any such person is an infant, lunatic or is under any other disability or is not yet in being.

§ 24. **Fraud; action to set aside the judgment or to recover the property.**—Any title registration procured by or as the result of fraud may be set aside, in the same manner and by the same proceedings as in case of a deed obtained by fraud, provided that such proceeding for setting aside the registration shall not injuriously affect the rights of an innocent purchaser or incumbrancer of the property after such registration, for value and without actual notice of the fraud, and provided further that the action or other proceeding to set aside such registration be commenced within ten years from the time when the final judgment of registration was entered. No action or proceeding shall lie or be commenced, except on the ground of fraud as above stated, to set aside any judgment of registration or to modify or affect the same or for the recovery of registered property or any estate, right or interest in or lien upon the same or any part thereof, or make any entry thereon, adversely to the title or interest registered therein, as directed by a final judgment of the court, unless such action or proceeding is commenced within six months after such judgment of registration is entered.

§ 25. **Registration of title.**—After the final judgment directing registration of title is duly entered and filed in the registrar's office, the registrar shall proceed to register the title to the real property, estate, right, or interest, pursuant thereto, and issue a certificate or certificates thereof and enter the same as herein prescribed.

§ 26. **Certificate of registration.**— The registrar shall make, in the form prescribed by "Schedule B" of this act, an original certificate of registration of every title, right or interest registered by him pursuant to this act. Said certificate shall bear the date of its issue (the day and year), and be under the hand and official seal of the registrar, and be numbered in the order of its issue. Except in case of a corporation, it shall state whether

the owner of the property, right, or interest registered is married or unmarried, and if married, the name of the husband or wife. If the owner is a minor, it shall state his age; if he is under any other disability, it shall state the nature of such disability. The registrar shall make proper memorials or notations on the certificate, showing in such manner as to set forth and preserve their priorities the particulars of all the estates, mortgages, trusts, liens and charges, to which such owner's title is subject. No such memorial or notation shall be more than one folio (one hundred words), in length; but it may refer to covenants, restrictions and forms recorded in the "book of covenants, restrictions and forms" provided for by this act. The form of the first certificate of title, as set forth in "Schedule B" of this act, shall be subject to such changes as may be required in any case. All subsequent certificates shall be in like form, except that in place of the words "first certificate," et cetera, shall be the words "transfer from number * * *" (the number of the next previous certificate); also the words "first registered * * *" (date of first registration). On the back or reverse side of every certificate shall be printed, in plain legible type, the whole of section thirty-two of this act.

§ 27. **Registration book.**— The registrar shall keep a book or books to be known respectively as the "registration book" wherein he shall enter all first and subsequent "original" certificates of title by binding or recording them therein, with appropriate blanks for the entry of memorials and notations prescribed by this act. Said book shall be of about the size of the conveyance libers, now used in county clerks' and registrars' offices. Each certificate shall constitute a separate leaf of such book. About two inches of each leaf on the binding edge shall be kept blank on both sides, to facilitate rebinding. At such times as may be proper, the registrar may rebind the certificates in new volumes or registration books, containing respectively cancelled and uncancelled certificates. All memorials and notations, that may be entered in the registration book under the terms of this act, shall be entered upon the leaf constituting the last certificate of title of the property to which they relate. Whenever the term "certificate of title" is used in this act it shall be deemed as including all memorials or notations thereupon noted.

§ 28. **Duplicate certificate of title.**— The registrar shall, at the same time that he makes out his original certificate of title, make out an exact duplicate thereof, with the memorials and notations

thereon noted, which shall be delivered to the owner and shall be known as the owner's duplicate. Any duplicate certificate, or certified copy of a certificate, shall be plainly stamped as such across its face.

§ 29. **Owner's receipt for certificate of title.**— For the purpose of preserving evidence of the handwriting of the owner of any registered property, right, or interest, it shall be the duty of the registrar to take from such owner, in every case where it is practicable so to do, his receipt for the certificate of title, or whatever paper shall be issued to him, signed by such owner in person. When such receipt is signed in the registrar's office it may be witnessed by the registrar or some deputy. If signed elsewhere, it may be acknowledged before any officer authorized to take acknowledgment of deeds. When so signed and witnessed or acknowledged, such receipt shall be prima facie evidence of the genuineness of such signature.

§ 30. **Certificate to include dealings pending registration.**— In every case of initial registration, the certificate of title shall include all dealings with the real property, and all statutory or other liens filed against the same, subsequent to the filing of the application, except when they are modified or set aside by a judgment, decree or order of the court. On and after the filing with the registrar of an application for the registration of any real property, and until the same is registered or the application is denied, dismissed, or discontinued, all papers which are required or permitted by this act to be filed against registered property shall be filed with the registrar as if the property were registered.

§ 31. **Certificate of title as evidence.**— The registration certificate of the title, and any copy thereof duly certified under the hand and seal of the registrar and the owner's duplicate certificate, until the expiration of the time herein limited to bring an action or proceeding to set aside the judgment of registration shall be received as evidence in all the courts of the state, and in all courts and places shall be prima facie evidence that the provisions of law up to the time of issue of such certificate or duplicate, or of the time of entry of the last memorial thereon, have been complied with, and that such certificate of title has been issued in compliance with a valid judgment, and that the title to the property is as therein stated; and after the expiration of such time limited for bringing said proceedings to set aside said judgment, such certificate or copy, up to the time of its issue, shall be so received as evidence in all courts of the state, and shall be con-

clusive evidence of the same facts. Every memorial or notation or cancellation thereof made on any certificate or duplicate or copy thereof shall be signed by the registrar or his deputy or his duly authorized deputy or clerk.

§ 32. **Rights of registered owners; exceptions; incumbrances, et cetera, to be filed.**—A person who receives a certificate of title pursuant to a judgment of registration, except in case of fraud to which he is a party, and a purchaser of registered real property, who takes a certificate of title for value and in good faith, shall hold the same free from all incumbrances, charges, trusts, liens and transfers, except those noted on the certificate in the registrar's office, and any of the following which may exist:

First. Liens, claims, or rights arising or existing under the laws or constitution of the United States, which the statutes of this state do not require to appear of record;

Second. Any tax, water rate, or assessment which becomes a lien on the property after initial registration and for which a sale has not been made;

Third. Any lease or agreement for a lease, made after or pending registration, for a period not exceeding one year, where there is actual occupation of the land under the lease or agreement;

Fourth. Easements or servitudes which accrue against the property after initial registration in such manner as not to require their registration. Except as specified in the foregoing statement of exceptions, no incumbrance, charge, trust, lien, or transfer shall take effect upon or over real property the title to which has been registered, unless the instrument creating and setting forth such incumbrance, charge, trust, lien, or transfer has been filed with the registrar and a memorial or notation thereof made upon the certificate of title covering the property.

§ 33. **Registered property not affected by prescription or adverse possession.**— No title to registered real property, in derogation of that of the registered owner, shall be acquired by prescription or adverse possession.

§ 34. **Fraud; notice only by registration.**— Except in case of fraud and except also as herein otherwise provided, no person taking a transfer of any registered real property or of any estate or interest therein or lien or charge thereon from the registered owner shall be required to inquire into the circumstances under which, or the consideration for which such owner or any previously registered owner had the title registered, nor shall such transferee be affected with notice, actual or constructive, of any

unregistered trust, lien, claim, demand or interest whatever; and the knowledge that an unregistered trust, lien, claim, demand or interest is in existence shall not of itself be imputed or treated as fraud.

§ 35. **Memorial to be carried forward.**— Whenever a memorial or notation has been entered as permitted by this act, the registrar shall carry the same forward upon all certificates of title until the same is cancelled in some manner authorized by this act.

§ 36. **Registered property to remain registered.**—The bringing of property under this act shall imply an agreement, running with the land and binding upon the applicant and all his successors in interest or title, that the property shall be subject to the terms of this act and all amendments and alterations thereof. All dealings with the property so registered, or any estate, right, or interest therein, after the same has been brought under this act, and all liens, incumbrances and charges upon the same after the first registration thereof shall be subject to the terms of this act.

§ 37. **Registered property subject to same rights and burdens as unregistered property.**— Registered real property and every estate, right and interest therein shall be in all respects subject to the same rights, burdens and incidents as unregistered real property, except as otherwise expressly provided in this act or any amendment thereof.

§ 38. **Transfers of registered property.**—A registered owner of real property, in order to transfer his whole estate or interest therein or any part or parcel thereof, or any undivided interest therein shall execute to the intended transferee a deed or instrument of conveyance in any form authorized by law. Upon filing such deed or other instrument in the registrar's office and surrendering to the registrar the duplicate certificate of title, if the interested parties agree in a statement as to the nature and effect of the transfer the registrar shall enter such statement as a memorial upon the proper original certificate, provided that such statement is not more than one folio (one hundred words) in length. He shall then make out and register as herein provided a new certificate and also an owner's duplicate certifying the title to the estate or interest in the property conveyed to the transferee and shall enter upon the original and duplicate certificate the date of the transfer, the name of the transferee and the number of the new certificate, and shall stamp across the original and surrendered duplicate certificates the word

"cancelled." If the parties in interest fail to agree upon the statement to be entered upon the certificates, the registrar shall refuse to make the transfer until directed by the court as herein provided. Title to such property shall not pass by such transfer until the transfer is registered as prescribed by this section.

§ 39. **Certificate remaining part of property transferred.**— When only a part of the property described in a certificate is transferred, or some estate or interest therein is to remain the transferrer's, a new certificate shall be issued for such part, estate or interest so remaining and belonging to him; or if the property is so described as to permit it, the property transferred may be cancelled on the certificate of the transferrer without the issue of a new certificate for the residue.

§ 40. **Book of covenants, restrictions and forms.**— Each registrar shall provide a book to be known as the book of covenants, restrictions and forms. This book shall be bound in a substantial manner and the pages thereof shall be Crane's parchment paper or its equal. Any person may have recorded in this book any covenant, restriction or form he may present for that purpose on payment to the registrar at the rate of fifty cents per folio. The covenant, restriction and form so entered shall be numbered consecutively and shall be written in the book with India ink or equally permanent ink in a clear and legible manner under the number given to it. References in any documents issued by the registrar to any covenant, restriction or form recorded in this manner shall be as follows:

Subject to restriction, (or covenant or form) recorded under No. in the book of covenants, restrictions and forms, in the registrar's office of this county.

§ 41. **Filing, entering and indexing papers pursuant to this act; tickler certificate.**— Every paper filed with the registrar shall be given a serial number in the order of its filing, and then shall be entered by the registrar in an "entry book" under columns showing:

First. The serial number;

Second. Day of filing;

Third. Filing number of application (complaint) to which it relates if the registration proceedings are still pending;

Fourth. Certificate number, if registration proceedings are completed and certificate has been issued;

Fifth. Kind of paper filed;

Sixth. Name and address of the person in whose interest the paper is filed;

Every paper filed with the registrar affecting property for which registration proceedings are pending shall be kept by the registrar with the application. The registrar shall provide a book to be known as "the tickler certificate book" wherein he shall note all filed papers affecting property for which registration proceedings are pending. Each page shall constitute a separate tickler certificate, and on said certificate he shall enter the character of the paper, the date of filing and the filing number. The tickler certificate, subject to such change as the case may require, shall be substantially as follows:

Application number

This certifies that the following papers have been filed in the office of the registrar of county affecting, or in connection with an action to register the title to the following described real property, to wit:

(The description to appear here.)

Character of paper.	When filed	Filing number.

A memorial of every paper filed with the registrar affecting title to registered property shall be entered at once upon the last original certificate to which it relates. Every paper filed with

the registrar affecting the title to property shall be indexed from its contents as follows: In an index showing in alphabetical order in one column or in a set of columns the names and post-office addresses of all persons in whose interest applications for registration of title are filed; the names and post-office addresses of all persons to whom any interest, right, or power in real property is granted or released; and the names and post-office addresses of all persons claiming an interest in real property; also, in separate columns the kinds of papers filed, the numbers of the filed papers, the dates of filing, the filing numbers of application to which they relate (if application is pending) and the numbers of the last original certificate to which they relate (if the title to the property is registered). Whenever a judgment or an order of court directs that the title to real property be registered, it shall also direct the registrar to transfer all proper liens and incumbrances filed against the property pending registration to the certificate of title so to be issued. In those counties which have block indexes, an index shall be kept by blocks of all owners of registered property with a reference to the certificate numbers in which the properties are registered.

§ 42. **Notice of filed papers.**—All papers filed by the registrar, and indexed and entered by him pursuant to this act, shall be of equal effect as to notice, in the order of their filing as shown by their filing numbers, as are similar papers when recorded by county clerks or registers under the recording acts. Should an action for registration be discontinued or otherwise terminated without registration, an order of court to that effect shall be filed with the registrar, who shall at once cause all the papers relating to the title to the property affected, filed with him, to be recorded by the county clerk or register in the order of their filing, on payment of the statutory fees.

§ 43. **Addresses of interested parties; notice.**— On every paper or instrument filed with the registrar there shall be indorsed the name and post-office address of the person in whose behalf it is filed; and all notices by the registrar or other person relating to the property therein described may be served by mail on such person at such post-office address, except as otherwise provided herein. The address may be changed from time to time, by such person filing with the registrar a written notice of such change.

§ 44. **When a transfer is deemed to be registered.**— Every transfer of registered property shall be deemed to be registered

under this act when the new certificate to the transferee shall have been entered as in the case of first registration; and all other dealings shall be considered as registered when the memorial or notation shall have been entered in the registration book upon the last certificate of title to the property.

§ 45. **New certificates.**— Upon the application of any registered owner of property held under separate certificates of title, or under one certificate, and delivering up of such certificate or certificates of title, the registrar shall issue to such owner a single certificate of title for the whole of such property, or several certificates, each containing a portion of such property in accordance with such application, and as far as the same may be done consistently with any regulations at the time being in force respecting the parcels of land that may be included in one certificate of title; and upon issuing any such certificate of title, said registrar shall indorse on the last previous certificate of title of such property so delivered up a memorial setting forth the occasion of such cancellation, and referring to the number or numbers of the new certificate or certificates of title so issued.

§ 46. **Loss of owner's duplicate.**— If any duplicate certificate is lost or destroyed or cannot be produced, a duly verified statement, setting forth the facts relating thereto, may be filed with the registrar by the registered owner, or other person in interest. Upon such application, after due notice and hearing, the court may direct the registrar to issue a new duplicate certificate, containing a memorandum of the fact that it is issued in place of a lost duplicate certificate, which shall be entitled to like faith and credit as the original duplicate.

§ 47. **Mortgages, leases and other liens and charges; may be registered.**—Any mortgage, lease for a term of over one year, contract to sell or other instrument intended to create a lien, incumbrance, trust or charge on registered property or any right or interest therein, may be registered as herein provided.

§ 48. **Proceedings to register mortgage, lease or other lien or charge.**— On the filing of the instrument in the registrar's office and the production of the duplicate certificate of title, if the interested parties agree in a statement as to the nature and effect of the mortgage, lease or other lien or charge, the registrar shall enter such statement upon the proper certificate in the registration book, provided such statement be not more than one folio (one hundred words) in length, and also he shall enter upon the

owner's certificate a memorial thereof and the date of filing the instrument with a reference to its file number, which memorial shall be signed by the registrar. The registrar shall also note upon the instrument filed the number of the certificate on which the memorial is entered. If the parties in interest fail to agree upon the memorial so to be made by the registrar, he shall refuse to make any memorial thereof until directed by the court to do so, as herein provided.

§ 49. **Judgments, decrees, attachments and other liens to be noted on certificate.**— No judgment, decree, attachment, execution, mechanic's lien, or other lien or charge, which may affect or be a lien or charge upon real property in this state, shall be or become a lien or charge on real property, or any right or interest therein, the title to which has been registered, unless a transcript, or certified copy, or other duly made or certified document, which is by law proper evidence in a court of record, of such judgment, decree, attachment, mechanic's lien, or other lien or charge, shall be duly filed with the registrar, and a proper memorial thereof made by him upon the certificate of registration in the registration book. Such transcript, or certified copy, or other duly made or certified document so filed shall have plainly written or stamped thereon the number of the certificate of registration of the title to the property to be affected and bound thereby by virtue of such memorial on such certificate, and it shall be the duty of the registrar to make such memorial immediately on receipt of the same. A discharge, cancellation, or modification of any judgment, decree, attachment, mechanic's lien, or other lien or charge, so noted on the certificate, shall not affect or be binding upon the registered property, right, or interest, unless on like evidence a memorial thereof shall be made by the registrar on such certificate.

§ 50. **Assignment of mortgage, lease, or other lien or charge.**— The holder of any mortgage, lease, or other lien or charge on registered property, in order to transfer the same or any part thereof, shall execute an assignment of the whole or any part thereof; and upon such assignment being filed in the office of the registrar, and the production of a true copy of the instrument, if any, which created the mortgage, lease or other lien or charge and which is held by the assignor, the registrar shall enter in the registration book a memorial of such transfer with a reference to the assignment by its file number; he shall also note upon the instrument on file in his office intended to be transferred, and

upon the true copy thereof produced, the number of the certificate on which the memorial is entered, with the date of the entry.

§ 51. **Release, discharge or surrender of charge or incumbrance.** — A release, discharge or surrender of a charge or incumbrance, or any part thereof, or of any part of the property charged or incumbered, may be effected in the same way as is above provided in the case of a transfer. In case only a part of the charge or only a part of the property charged is to be released, discharged or surrendered, the entry shall be made accordingly, but when the whole is released, discharged or surrendered, the registrar shall plainly stamp across the instrument on file, and on the memorial thereof, and on a true copy produced, the word "cancelled," and shall sign the same.

§ 52. **Enforcement of mortgages, charges, liens and incumbrances.**—All charges, liens and incumbrances on registered property, or on any estate, right or interest in the same, and all rights therein may be enforced as now allowed by law; and all laws with reference to the foreclosure, release or satisfaction of mortgages shall apply to mortgages on registered property or on any estate, right or interest therein, except as herein otherwise provided, and except that until notice of the pendency of any suit to enforce such mortgage, charge, lien, or incumbrance is filed in the registrar's office and a memorial thereof entered on the certificate in the registration book, the pendency of such suit shall not be notice to the registrar or to any person dealing with the property or any right or interest therein.

§ 53. **Powers of attorney to be filed and registered.**— Before any person can convey, charge, incumber or otherwise deal with any registered property, or any estate, right or interest therein, as attorney in fact for another, the deed or instrument empowering him so to act shall be filed with the registrar and a memorial thereof shall be entered upon the certificate in the registration book, in like manner as in the case of a charge or incumbrance.

§ 54. **Reference of doubtful matters to the court.**— When the registrar is in doubt, and when the parties in interest fail to agree as to the proper memorial to be made in the registration book of any deed, mortgage or other voluntary instrument presented for registration, the question shall be referred to the court for decision, either on the certificate of the registrar stating the question, or upon the suggestion in writing of any party or parties in interest; and the court, after due notice to all parties

in interest, and a hearing, if necessary or proper, shall enter an order prescribing the form of the memorial to be made by the registrar, who shall make the memorial accordingly.

§ 55. **Death of registered owner; transfer of property.**— Upon the death of a registered owner of real property or any estate, right, or interest therein, his heirs-at-law or devisees, at any time after the due entry of a decree of the surrogate's court, probating his will and granting letters testamentary thereon or granting letters of administration, or in case of an appeal from such decree at any time after the entry of a final decree, may file with the registrar a certified copy of such final decree, and may make application for a new registration or new registrations of the title and new certificate or certificates thereof. Two or more heirs or devisees may unite in one such application. The proceedings and action on such application shall be the same as in the case of initial registration, except that the registration certificate of the deceased owner, or a duplicate copy thereof, shall be sufficient and conclusive evidence of his title at the time of his death, and no other evidence of the title up to that time may be produced.

§ 56. **Registration certificate during settlement of estate.**—Any new certificate of registration, made and entered as prescribed in the preceding section of this act before the final settlement in the surrogate's court of the personal estate of the deceased owner of the real property, shall state expressly that it is made and entered because of transfer of the title from the last certificate by descent or devise, and that such personal estate is in process of settlement. After the final settlement of such personal estate in the surrogate's court, or after the expiration of the time allowed by the code of civil procedure for bringing a proceeding for selling, mortgaging or leasing the real property of the deceased owner for the payment of his debts, the heirs-at-law or devisees may apply to the court in the registration action for an order directing the cancellation of said memorial upon the certificate, which memorial showed that the personal estate was in the course of settlement, and the court, after being satisfied by due proof that said personal estate is completely settled or that said time to apply for selling, mortgaging or leasing the said real property has expired, shall make an order directing the cancellation of said memorial; but the liability of heirs or devisees of registered property, or of such property itself, for claims against the deceased

or his estate shall not be in any way diminished or changed by this act.

§ 57. **Title derived through execution of a power in a will.**—When the will of a deceased registered owner of real property, or of any estate, right or interest therein, empowers the executor or executors to sell, incumber or otherwise deal with such property, estate, right or interest, it shall not be necessary for such executor or executors to be registered as the owner or owners thereof; but any person who acquires title through or by virtue of the execution of such power may have such title registered, by proceeding in the same manner as heirs or devisees of a deceased registered owner of real property, as directed and provided by this act.

§ 58. **Assurance fund.**—Upon the original registration of real property, there shall be paid to the registrar one-tenth of one per centum of the value thereof on the basis of the last assessment for local taxation. All moneys received by the registrar under the provisions of this section shall be paid to the treasurer of the county (in New York city to the city chamberlain), as an assurance fund for land registered in his county. Said treasurer (or city chamberlain) shall invest the same as trust funds and report annually thereon as required by law in reference to other funds in his hands. Any person who states, at the original registration of property, that he takes such property without recourse to any action to recover compensation out of the assurance fund for any loss, damage or deprivation, shall not be required to make any payment on account of said fund, in which case the registrar shall plainly place on the certificate of registration of such property or any duplicate or certified copy thereof, the words "without recourse to the assurance fund." Nothing herein shall prevent any person owning registered property from making payment to the registrar of the said one-tenth of one per centum of the said local assessed value thereof, whereupon the owner of said property may thereafter avail himself of any right to recover compensation from the assurance fund which right may thereafter arise; and on receipt of such payment the registrar shall cancel the words "without recourse to the assurance fund" from the certificate of registration, any duplicate or copy thereof.

§ 59. **Compensation from assurance fund.**—Any person who, without negligence on his part, sustains loss or damage or is deprived of real property, or of any estate, right or interest

therein, after the original registration thereof, because of the registration of another person as owner of such property, or of any estate, right, or interest therein, through fraud, or in consequence of any error, omission, mistake or misdescription in any certificate of title or in any entry or memorial in the registration book, may bring an action to recover compensation out of the assurance fund for such loss or damage; but if the person who is deprived of such property, or any estate, right, or interest therein in the manner above stated has any other right of action or other remedy for recovery on account of such loss or damage, he shall exhaust such remedy before resorting to the action herein provided.

§ 60. **Action against assurance fund.**— If an action is brought to recover for loss or damage, or deprivation of real property, or of any estate, right or interest therein, which arises wholly through any fraud, negligence, omission, mistake or misfeasance of the registrar or his deputies or clerks in the performance of their respective duties, the action shall be brought against the county treasurer (in New York city the city chamberlain), as the defendant. If such action is brought to recover for loss or damage, or deprivation of real property, or of any estate, right or interest therein, which arises wholly through any fraud, negligence, omission, mistake or misfeasance of some person or persons other than the registrar or the other officers and assistants above named, or which arises jointly through the fraud, negligence, omission, mistake or misfeasance of such other person and the registrar or the other officers and assistants above named, such action shall be brought against both the county treasurer (in New York city the city chamberlain), and such other person or persons as codefendants. In any action where there are defendants other than the county treasurer (in New York city the city chamberlain), and damages shall have been recovered, no final judgment shall be entered against the county treasurer (in New York city the city chamberlain), until execution against the other defendants shall have been returned unsatisfied in whole or in part, and the officer returning the execution shall certify that the amount still due upon the execution cannot be collected except by application to the assurance fund. Thereupon, the court, being satisfied as to the truth of such return, may, upon proper showing, order the amount of the execution and costs, or so much thereof as remains unsatisfied, to be paid by the county treasurer (in New York city the city chamberlain) out of the assurance

fund. Any person other than the county treasurer (in New York city the city chamberlain), against whom any such judgment may have been recovered, shall remain liable therefor, or for so much thereof as shall have been paid out of the assurance fund, and said treasurer or city chamberlain may bring suit at any time to enforce the lien of such judgment against such person or his estate for the recovery of any amount, with interest, paid out of the assurance fund as aforesaid. If the assurance fund is insufficient to pay the judgment in full, the unpaid balance thereof shall bear interest at the legal rate and shall be paid out of the first moneys coming into said assurance fund. It shall be the duty of the attorney-general of the state, or if the attorney-general so direct, the district or prosecuting attorney of the county, or the corporation counsel in New York city, to appear and defend such suits.

§ 61. **Restrictions on claims against assurance fund.**— No person shall recover from the assurance fund any sum whatsoever by reason of any loss, damage or deprivation occasioned solely by a breach of trust on the part of any registered owner who is trustee, or by the improper exercise of any power of sale in a mortgage, nor shall any person recover from the assurance fund any greater sum than the fair market value of the property at the time the right to bring such action first accrued. Any action or proceeding to recover damages out of the assurance fund shall be commenced within six years from the time when the right to begin the same accrued, and not afterward, and such time shall not be extended because of any disability.

§ 62. **Penalties for fraudulent acts or false certificates.**— Whoever fraudulently procures or assists in fraudulently procuring, or is intentionally privy to the fraudulent procurement of any certificate of title or other instrument, or of any entry in the registration or other book kept in the registrar's office, or of any erasure or alteration in any entry in said book, or in any instrument authorized by this act, or knowingly defrauds, or is intentionally privy to defrauding any person by means of a false or fraudulent instrument, certificate, statement or affidavit, affecting registered land, shall be guilty of a felony and shall be punished by a fine of not exceeding five thousand dollars, or imprisonment for a period not exceeding five years, or both, in the discretion of the court.

§ 63. **Forgery, et cetera; penalty.**— Whoever forges, or procures to be forged, or assists in forging, the seal of the registrar,

or the name, signature, or handwriting of any officer of the registrar's office; or fraudulently stamps or procures to be stamped, or assists in stamping, any document with any forged seal of said registrar, or forges or procures to be forged, or assists in forging, the name, signature or handwriting of any person whomsoever, to any instrument which is expressly or impliedly authorized to be signed by such person, or uses any document upon which any impression or part of the impression of any seal of said registrar has been forged, knowing the same to have been forged, or any document the signature to which has been forged, knowing the same to have been forged, or swears falsely concerning any matter or proceeding made or done in pursuance of this act, shall be guilty of a felony, and shall be punished by imprisonment in the penitentiary for a period not exceeding five years, or by a fine not exceeding five thousand dollars, or both, in the discretion of the court.

§ 64. **Fees to be charged.**— The following fees shall be charged by registrars for the various services performed pursuant to this act:

(a) Filing the application, including entering it in the entry book, indexing it, and entering it in tickler certificate book, one dollar and fifty cents.

(b) Entering and filing each order of service or summons, seventy-five cents.

(c) Entering and filing order appointing guardian ad litem, seventy-five cents.

(d) Entering, filing and indexing judgment and issuing certificates of title in accordance therewith, and indexing same, five dollars.

(e) Entering, filing and indexing any lien, incumbrance or charge pending registration or subsequent thereto, one dollar.

(f) Entering, filing and indexing a deed or other paper requiring the cancellation of one certificate and the issue of another — for each new certificate issued, two dollars.

(g) Entering, filing and indexing any instrument cancelling any lien or incumbrance on a certificate, fifty cents.

(h) Making any additional certificate, fifty cents.

(i) Entering, filing and indexing a caution, one dollar.

§ 65. This act shall be construed liberally, so far as may be necessary for the purpose of effecting its general intent.

§ 66. This act shall take effect on the first day of February, nineteen hundred and nine.

SCHEDULE "A."

EXAMINER'S CERTIFICATE OF TITLE.

State of New York, }
County of..... } day of....., 190..

.....

certifies that title to the premises herein described in this certificate is vested in.....

.....

clear of all liens, incumbrances, defects, rights and interests, except as noted below. A full statement has been made of all liens, incumbrances, defects, rights and interests including restrictions, special agreements, covenants, easements, taxes, survey, judgments, mortgages, and encroachments as they arise in the order of this certificate, which statement is found in the following pages of this schedule. A brief summary statement of the same is as follows (such summary to be here set out in the order of the paragraphs of this certificate): The names and post-office addresses of all persons interested, or claiming to have any rights or interest in said property and the natures of their interests are as follows:

Names.	Post-Office Address.	Nature of Interest.

The names of the other persons interested, or claiming to have any rights or interests, in said property whose post-office addresses and whereabouts are unknown and cannot by diligent inquiry be ascertained are as follows:

Names.	Nature of Interest.
.....	
.....	

The facts as to the inquiries and efforts made to find other persons having any rights or interests in said property and the diligence used to ascertain whether or not those known can be personally served with a summons within the state, are set forth in the following detailed statement:

DETAILED STATEMENTS.

1. **Description.**— The following is an accurate diagram of the property proposed for registration in this action, the same having been copied from a survey made by..... dated.....

The arrow shows the north point.

The above property is more particularly bounded and described as follows:

.....

.....

2. **Records examined.**— Records necessary to determine the ownership of the above-described property and all liens and incumbrances have been examined in the offices of the register; clerk of the United States circuit court of the.....district; clerk of the United States district court of the..... district; United States loan commissioner; county clerk; tax collector; comptroller; county treasurer. The results of the examination of the records of the various offices above described are herewith set forth in detail separately. In case it has been found impossible to get necessary information to complete this certificate in any respect, a detailed statement has been given showing what efforts have been made.

3. **Register's (or county clerk's) office.**— The chain of title given below shows the source of title and the present owner. It also shows all agreements and instruments of record affecting said property. Special covenants, restrictions, unsatisfied mortgages, agreements appearing in said chain are set forth in detail after the chain of title in this certificate. Column one provides a numerical designation to avoid the rewriting of names, reference thereto hereafter being made by number; column two, grantors; column three, grantees; column four shows the nature of the instrument. The abbreviation F. C. W. means full covenant and warranty deed; B. & S., bargain and sale; Q. C., quitclaim; Exors., executors; Tr., trustees; Shf., sheriffs. The additional abbreviation C. A. G. in any column means covenants against grantors' acts. Column five shows nature of the transaction. The word fee, life estate or estate for years or special agreement has been filled in as the case may be. Column six, date of instrument; column seven, date of record; column eight, liber and page of record; column nine, defects in instruments which have been noted defective. All liens and incumbrances and defects in the register's office (or county clerk's) are set forth after the chain of title.

(1)	(2) Grantors.	(3) Grantees.	(4) Nature of Instrument.	(5) Nature of Transaction.

(6)	(7)	(8)	(9)
Date of Instrument.	Date of Record.	Liber and Page of Record.	Defects.

RESUME OF REGISTER'S (OR COUNTY CLERK'S) OFFICE.

.....

.....

PARTICULARS OF EACH MORTGAGE UNSATISFIED.

Mortgagor,
Mortgagee,
Kind,
Amount,
Dated,
Recorded,
Liber, ; Page, ; Sect.
When due,
Rate of interest,
Interest payable,
Principal and interest payable in
Said mortgage is due and payable upon default in payment of interest days.
Taxes and assessments days.

SPECIAL CLAUSES IN MORTGAGE.

(To be set out in full.)

Insurance,
Warranty,
Receivers,
Special tax,
Power of Sale,
Other special clauses not included in the above,
Assignments of above and bond,
In case the bond has not been signed this fact is noted.
Assigned by,
Assigned to,
Dated,
Recorded,
Liber, ; Page, Section,
The details of other unsatisfied mortgages are also set forth in detail.

4. **United States circuit and district courts, and United States loan commissioner's office.**— In the United States circuit and district courts judgments, decrees and liens have been recorded within the past fourteen years as follows:

UNITED STATES CIRCUIT COURT.

Names.	Dates.
.....	
.....	

UNITED STATES DISTRICT COURT.

Names.	Dates.
.....	
.....	

Petitions and decrees in bankruptcy have been filed during the periods of the various bankruptcy acts; as follows:

Act of eighteen hundred and forty-one to eighteen hundred and forty-three inclusive:

Names.	Dates.
.....	
.....	

Act of eighteen hundred and sixty-seven to eighteen hundred and seventy-eight inclusive:

Names.	Dates.
.....	
.....	

Act of eighteen hundred and ninety-eight to date, inclusive:

Names.	Dates.
.....	
.....	

Mortgages in United States loan commissioner's office. (See particulars under mortgages unsatisfied, paragraph three.)

Names.	Dates.
.....	
.....	

5. **County clerk's office.**— The records of this office show judgments, decrees and transcripts of judgments and decrees from all courts filed or docketed therein. Surrogate's decrees and forfeited recognizances against the following persons for the past fourteen years:

Names.	Dates.
.....	
.....	

Building loan contracts filed since eighteen hundred and ninety-seven:

Names.	Dates.
.....	
.....	

Mechanics' liens have been filed against owners of record as follows:

Names.	Dates.
.....	
.....	

Unsafe building liens have been filed since April one, eighteen hundred and sixty-two, as follows:

Names.	Dates.
.....	
.....	

A search has been made against each owner of record for the same period as in paragraph three (register's or county clerk's office) above, to discover; notices of lis pendens; certificates of sheriff's and marshal's sales; insolvent assignments; general assignments; foreclosure by advertisements; appointment of receivers; appointment of trustees, of absconding concealed non-resident or imprisoned debtors; exemptions under the Homestead Act. A further search of sheriff's certificates has been made against each owner for a period of eleven years subsequent to the search in the register's office and for foreclosure by advertisement to date. Such instruments and notices have been discovered as indicated on the following dates:

.....	
.....	

Unsatisfied chattel mortgages indexed against persons since April first, nineteen hundred and two.

Owners.	Dates.
.....	
.....	

Unsatisfied chattel mortgages indexed against property where indexing against property is required.

Owners.	Dates.
.....	
.....	

6. Comptroller's office (New York city).— The records of the comptroller's office show that bonds of receivers of taxes, deputy receivers of taxes, and chief clerks in the office of receiver of taxes have been signed by the owners of said property as sureties pursuant to the act of eighteen hundred and twenty-three and acts amendatory thereof as follows:

Names.	Dates.
.....	
.....	

7. County treasurer's office.— The records of the county treasurer's office show that bonds of receivers of taxes, deputy receivers of taxes, and chief clerks in the office of receiver of taxes have been signed by the owners of said property as sureties, pursuant to the act of eighteen hundred and twenty-three and acts amendatory thereof, as follows.

Names.	Dates.
.....	
.....	

8. Tax offices.— Taxes, assessments and water rates unpaid.

Year.	Amount.
.....	
.....	

(State in detail searches in all offices, local or otherwise, in which records of taxes or public claims against the property are kept.)

Sales for taxes, assessments and water rates.

(Wherever record of such sales are kept.)

To.	Date.
.....	
.....	

9. Other interested persons.— The following persons who do not reside on the premises claim interests or rights in said property, the nature of their claim in law or equity being herewith set forth in detail:

Name.	Address.	Nature of Claim.
.....		
.....		

The names and post-office addresses of the owners of the adjoining parcels of land are, as far as reasonably obtainable by inquiry on the premises, given below as shown in the diagram:

.....

.....

10. **Inspection of property.**—An inspection of the premises shows the property is occupied by the persons whose names and post-office addresses are set forth below; said occupants having described their interests and claims in said premises as follows:

Names.	Post-Office Address.	Nature of Claims.
.....		
.....		

An inspection of the plumbing, drains and sewers shows the following easements:

.....

.....

An inspection of the walls, halls, roofs, yards and fire-escapes show easements as follows:

.....

.....

Other matters which may or may not be of public record not included above and affecting said title are set forth as follows:

State of New York, }
County of..... } ss.:

.....

being duly sworn, deposes and says that he is a duly qualified official examiner of title, licensed to practice as such under and by virtue of the laws of the state of New York; that he has personally examined the title to the property described in the foregoing certificate, and has made the foregoing certificate, and that the statements contained in said certificate are true in every particular to the best of his knowledge and belief; and that he has employed all usual means and methods for ascertaining the truth thereof and of all the facts and circumstances affecting and concerning the title to said property.

.....

Sworn to before me, this
day of....., 190...

.....

SCHEDULE "B."

No. First Registered

CERTIFICATE OF TITLE.

(First Certificate) or (Transfer from No. .)

.....

State of New York, }
..... County, } ss.:

.....

of (residence, and if a minor give his age; if under other disability, state the nature of the disability); married to (name of husband or wife, or if not married, say not married); is the owner of an estate in fee simple (or as the case may be) in the following land (here describe the premises) subject to the estates, easements, incumbrances and charges hereunder noted. (In case of trust, condition or limitation, say "in trust" or "upon condition" or "with limitation," as the case may be.)

Witness my hand and official seal this (date).

(Seal)
Registrar.

MEMORIALS

of estates, easements and charges on the land described in the above certificate of title.

Document number.	Kind.	Running in favor of	Terms.	Date of Registration	Signature of Registrar.

Chap. 445.

AN ACT to amend chapter eight hundred and eighty-seven of the laws of eighteen hundred and seventy-one, entitled "An act in relation to the salary of the supervisors of Albany county," in relation to the salary of said supervisors.

Became a law, May 21, 1908, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section one of chapter eight hundred and eighty-seven of the laws of eighteen hundred and seventy-one, entitled "An act in relation to the salary of the supervisors of Albany county," as amended by chapter four hundred and ninety-seven of the laws of eighteen hundred and seventy-five, is hereby amended to read as follows:

§ 1. Every supervisor in the county of Albany shall receive as a compensation for his services and expenses as such supervisor, a salary of five hundred dollars per annum, besides travel fees now allowed by law; and no supervisor shall be paid or shall receive any other or greater sum than is herein provided for any services or expenses as such supervisor or as an agent or committee of the board of supervisors of said county, except for copying and extending assessment books, for which the supervisors of the city of Watervliet shall receive not to exceed the sum of seventy-five dollars, and the supervisors of the towns and of the city of Cohoes not to exceed twenty-five dollars each. The work of copying and extending the assessment books of the several wards of the city of Albany, in said county of Albany, shall hereafter be done by the assessors of the said city of Albany, who shall be paid for such work not to exceed in all the sum of twenty-five dollars for each ward in said city.

§ 2. This act shall take effect immediately.

Chap. 446.

AN ACT to amend chapter three hundred and forty-eight of the laws of eighteen hundred and eighty-five, entitled "An act to authorize the appointment of stenographers for grand juries, and to fix the compensation of such stenographers," in relation to appointing substitute in case of absence of official stenographer and providing compensation.

Became a law, May 21, 1908, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Chapter three hundred and forty-eight of the laws of eighteen hundred and eighty-five, entitled "An act to authorize the appointment of stenographers for grand juries, and to fix the compensation of such stenographers," is hereby amended by adding after section nine a new section to be section ten thereof, to read as follows:

§ 10. In case of the absence by reason of illness, or other cause, of the official stenographer to any grand jury in any county of this state, the district attorney of the county may designate a stenographer to perform the duties of such official stenographer during such absence, and the stenographer so designated shall receive the compensation which the official stenographer would have received for the same service, and the same shall be deducted from the salary of the official stenographer.

§ 2. This act shall take effect immediately.

Chap. 447.

AN ACT to amend the Greater New York charter in relation to rebates for prompt payment of taxes.

Became a law, May 21, 1908, with the approval of the Governor. Passed, three-fifths being present.

Accepted by the City.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section nine hundred and fourteen of the Greater New York charter, as re-enacted by chapter four hundred and

sixty-six of the laws of nineteen hundred and one is hereby amended so as to read as follows:

§ 914. The receiver of taxes shall, immediately after he shall receive the assessment-rolls, give public notice for at least five days in the City Record and in such newspaper or newspapers published in the several boroughs as may be designated by the board of city record, or in default of any newspaper being published in any borough, in such newspaper or newspapers having a general circulation in such borough as the board of city record shall direct, that said assessment-rolls have been delivered to him and that all taxes shall be due and payable at his office in the said respective boroughs on the first Monday in October. All taxes shall be and become liens on the real estate affected thereby on the day when they become due and payable as above provided, and shall remain such liens until paid.

§ 2. Section nine hundred and fifteen of the Greater New York charter, as re-enacted by chapter four hundred and sixty-six of the laws of nineteen hundred and one is hereby repealed.

§ 3. Section nine hundred and sixteen of the Greater New York charter, as re-enacted by chapter four hundred and sixty-six of the laws of nineteen hundred and one is hereby amended so as to read as follows:

§ 916. If any such tax shall remain unpaid on the first day of November thereafter it shall be the duty of the receiver of taxes to charge, receive, and collect upon such tax so remaining unpaid on that day, interest upon the amount thereof, at the rate of seven percentum per annum, to be calculated from the day on which said taxes became due and payable, as provided by section nine hundred and fourteen of this act, to the date of payment; and such increase of percentage shall be paid over and accounted for by such receiver from time to time, as a part of the tax collected by him.

§ 4. Section nine hundred and seventeen of the Greater New York charter, as re-enacted by chapter four hundred and sixty-six of the laws of nineteen hundred and one is hereby amended so as to read as follows:

§ 917. It shall be the duty of the said receiver, in person or by his deputies, to charge, collect and receive upon all taxes remaining unpaid on and after the first day of November interest at the rate of seven percentum per annum, to be calculated from

the day on which the said taxes became due and payable as provided by section nine hundred and fourteen of this act.

§ 5. This act shall take effect immediately.

Chap. 448.

AN ACT to amend chapter five hundred and forty-four of the laws of eighteen hundred and ninety-three, entitled "An act to promote the safety of railway employees by compelling the equipment of freight cars with automatic couplers," relative to the use of cabooses.

Became a law, May 21, 1908, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section two of chapter five hundred and forty-four of the laws of eighteen hundred and ninety-three, entitled "An act to promote the safety of railway employees by compelling the equipment of freight cars with automatic couplers," as amended by chapter four hundred and eighty-five of the laws of eighteen hundred and ninety-six, is hereby amended to read as follows:

§ 2. That from and after the passage of this act, in addition to such new freight cars, there shall be equipped each year with such couplers, by every company operating a line or lines of railroad within the state, at least twenty per centum of all freight cars owned or operated by such companies, and used within the state, which are not so equipped, except certain cars known and designated as "coal jimmies," and that on and after the first day of January, eighteen hundred and ninety-eight, the use of said "coal jimmies" in any form, and that on and after the first day of September, nineteen hundred and eight, the use of any car as a caboose unless it shall have a suitable and safe platform at each end thereof, and the usual railing for the protection of persons using such platform shall be unlawful within this state, except upon any railroad whose main line is less than fifteen miles in length and whose average grade exceeds two hundred feet to the mile, under penalty of one hundred dollars for each offense, said penalty to be recovered in an action to be brought by the attorney-general, in the name of the people, and in the judicial district where the principal office of the company within the state is

located. This section shall not be construed to authorize the interchange of such "coal jimmies" with, and the use therefor upon railroads of more than fifteen miles in length or whose average grade is less than two hundred feet to the mile.

§ 2. This act shall take effect immediately.

Chap. 449.

AN ACT to amend the penal code, in relation to protecting benevolent, humane or charitable corporations in the use of their corporate names.

Became a law, May 21, 1908, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The penal code is hereby amended by inserting therein a new section to be section six hundred and seventy-four-h thereof and to read as follows:

§ 674-h. **Unlawful use of name of benevolent, humane or charitable corporation.**— No person, society or corporation shall, with intent to acquire or obtain for personal or business purposes a benefit or advantage, assume, adopt or use the name of a benevolent, humane or charitable organization incorporated under the laws of this state, or a name so nearly resembling it as to be calculated to deceive the public with respect to any such corporation. A violation of this section shall be a misdemeanor. Whenever there shall be an actual or threatened violation of this section, an application may be made to a court or justice having jurisdiction to issue an injunction, upon notice to the defendant of not less than five days, for an injunction to enjoin and restrain said actual or threatened violation; and if it shall appear to the satisfaction of the court or justice that the defendant is in fact using the name of a benevolent, humane or charitable organization, incorporated as aforesaid, or a name so nearly resembling it as to be calculated to deceive the public, an injunction may be issued by said court or justice, enjoining and restraining such actual or threatened violation, without requiring proof that any person has in fact been misled or deceived thereby.

§ 2. This act shall take effect September first, nineteen hundred and eight.

Chap. 450.

AN ACT to authorize the relevying of certain uncollected school taxes in school district number one in the town of Webb, in the county of Herkimer, and legalizing certain tax proceedings in such district.

Became a law, May 21, 1908, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The trustees of school district number one in the town of Webb, in the county of Herkimer, at the time of the next ensuing annual levy of school taxes in such district after this act takes effect, are hereby authorized and empowered to include in the sum to be raised by such levy, in addition to the amounts which they are otherwise authorized to raise thereby, a further sum equal to the amount of the uncollected taxes under the district tax list and warrant issued to the collector of said district on the eighteenth day of June, nineteen hundred and six, and to thereby relevy and collect such uncollected taxes against the persons and property, including wild forest lands belonging to the state, against whom or which they were levied by said original tax list and warrant with the same force and effect as if such taxes were being lawfully levied and assessed for the first time; and all proceedings for such original levy of said taxes, uncollected as aforesaid, and the assessments therefor, are hereby in all things legalized, ratified and confirmed, notwithstanding any error or irregularity therein, and are declared to be valid and of the same force and effect as if they had conformed in all respects to the requirements of law in the first instance. Such uncollected taxes shall not, however, be relevied under the authority of this act unless and until said trustee shall have given previous notice, in the manner provided by the tax law for giving notice of the hearing of grievances and of the revision of a town assessment roll, of a time and place at which such trustees shall hear objections to such relevy or to any item thereof; but if a notice of a grievance day to hear objections to assessments and valuations of such next ensuing tax list, pursuant to section sixty-five of title seven of the consolidated school law, is necessary and is given, the notice herein provided for may be incorporated therewith, and all such objections may then be heard and entertained at the same time.

§ 2. Nothing in this act contained which relates to the legalization of tax proceedings shall apply to or affect any pending action or proceeding in law or in equity.

§ 3. This act shall take effect immediately.

Chap. 451.

AN ACT to authorize the state comptroller to hear, audit and determine the claim of the county of Erie for certain moneys expended by it in the maintenance and repairs of certain highways located therein and providing for the payment of the same.

Became a law, May 21, 1908, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The state comptroller is hereby authorized to hear, audit and determine the claim of the county of Erie, for not to exceed fifteen thousand dollars, for certain moneys expended by it between May sixteenth and December thirty-first, nineteen hundred six, in the maintenance and repairs of certain highways located therein, notwithstanding the passage of chapter four hundred sixty-eight of the laws of nineteen hundred six, but upon such hearing, audit and determination he shall deduct from any moneys which shall be shown to have been so expended by the county of Erie such sum, at the rate of fifty dollars in each town of said county for each mile or fraction of a mile of such highway maintained or repaired, as such towns should have contributed thereto pursuant to section twelve of said chapter, together with any other sum or sums which should be equitably offset against such claim in order to arrive at the sum which the state would have otherwise been compelled to expend in the maintenance and repair of such highways pursuant to said chapter.

§ 2. The sum of fifteen thousand dollars or so much thereof as may be necessary, is hereby appropriated for the payment of such claim when it shall have been so determined, which, when determined, shall be paid to the county of Erie for the use and benefit of such county.

§ 3. This act shall take effect immediately.

Chap. 452.

AN ACT to supplement the general laws relating to the government of the city of Yonkers, and to revise and consolidate the local laws relating thereto.

Became a law, May 21, 1908, with the approval of the Governor. Passed, three-fifths being present.

Accepted by the City.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

ARTICLE I.

CORPORATE CAPACITY AND NAME, CITY BOUNDARIES, WARD BOUNDARIES.

Section 1. The citizens of the state of New York from time to time inhabitants of the territory in the county of Westchester included in the boundaries set forth in section two hereof, and known as the city of Yonkers, are continued a municipal corporation in perpetuity under the name of "The city of Yonkers."

§ 2. The said city shall be bounded westerly by the westerly line of the county of Westchester, northerly by the town of Greenburgh, easterly by the middle line of the Bronx river as the same existed at the time of the original incorporation of the city of Yonkers, and southerly by the city of New York.

§ 3. The city shall be divided into ten wards, bounded as follows:

First ward.— Beginning at the intersection of the extension westerly of the middle line of Main street as it runs from Buena Vista avenue to the Hudson river with the westerly line of the city of Yonkers, and running thence easterly along said extended line and middle line of Main street to its intersection with the center line of Riverdale avenue; thence southerly along the center line of Riverdale avenue to the southerly line of the city of Yonkers; thence westerly along said southerly line to the westerly line of the city; thence northerly along said westerly line to the place of beginning.

Second ward.— Beginning at a point where the middle line of Nepperhan avenue intersects the middle line of the old Croton aqueduct, and running thence southerly along the middle line of Nepperhan avenue to a point where the middle line of Nepperhan avenue intersects the middle line of Main street; thence westerly along the middle line of Main street to the westerly line of the city of Yonkers; thence northerly along the westerly line of the city of Yonkers to a point at the intersection of the extension westerly of the middle line of Ashburton avenue as it runs from Woodworth avenue to the Hudson river, with the westerly line of the city of Yonkers, and running thence easterly along said extended line and middle line of Ashburton avenue to its intersection with the middle line of Palisade avenue, and thence southerly along the middle line of Palisade avenue to a point where it intersects the middle line of the old Croton aqueduct; thence easterly along the middle line of the old Croton aqueduct to the point or place of beginning.

Third ward.— Beginning at the point where the middle line of Ashburton avenue intersects the middle line of Saint Joseph's avenue, thence running northerly along the middle line of Saint Joseph's avenue to the point where it intersects the middle line of High street; thence in a straight line to the point where the middle line of Fairview street intersects the middle line of Waring place; thence northerly along the middle line of Waring place and in the direction of the middle line of Waring place extended northerly as it runs from Fairview street, northerly to the northerly boundary line of the city of Yonkers, and thence westerly along said northerly line of the city of Yonkers to the westerly line of the city, and thence southerly along said westerly line to northwesterly corner second ward; thence easterly along middle line of Ashburton avenue to place of beginning.

Fourth ward.— Beginning at a point formed by the intersection of the middle line of Riverdale avenue with the middle line of Main street, thence running easterly along the middle line of Main street through Getty square and along the middle line of New Main street to the intersection with the middle line of South Broadway; thence southerly along the middle line of South Broadway to the southerly line of the city of Yonkers; thence westerly along the southerly line of the city of Yonkers to the

middle line of Riverdale avenue; thence northerly along the middle line of Riverdale avenue to the point or place of beginning.

Fifth ward.— Beginning at a point formed by the intersection of the middle line of Nepperhan avenue with the middle line of Ashburton avenue, and running thence southerly along the middle line of Nepperhan avenue to the middle line of Elm street; thence easterly along the middle line of Elm street to the middle line of Linden street; thence southerly along the middle line of Linden street to the middle line of Maple street; thence easterly along the middle line of Maple street and its easterly prolongation to the middle line of Van Cortlandt Park avenue; thence southerly along the middle line of Van Cortlandt Park avenue to the middle line of Spruce street; thence easterly along the middle line of Spruce street to the middle line of Alder street; thence northerly along the middle line of Alder street to the middle line of Elm street; thence easterly along a line drawn at right angles with the middle line of Alder street to the middle line of lands of the Putnam division of the New York Central and Hudson River railroad company; thence northerly along the said middle line of said railroad lands to the middle line of Yonkers avenue; thence westerly along the middle line of Yonkers avenue to the middle line of Ashburton avenue; thence northwesterly and westerly along the middle line of Ashburton avenue to the point or place of beginning.

Sixth ward.— Beginning at the point where the middle line of Ashburton avenue intersects the middle line of Saint Joseph's avenue; thence running northerly along the easterly boundary line of the third ward to the northerly boundary line of the city of Yonkers; thence easterly along the northerly line of the city to the middle of the Nepperhan river; thence southerly along the middle line of the Nepperhan river to a point therein where it intersects the middle line of Ashburton avenue; thence westerly along the middle line of Ashburton avenue to a point where it intersects the middle line of Nepperhan avenue; thence southerly along the middle line of Nepperhan avenue to a point in the middle line of the old Croton aqueduct; thence westerly along the middle line of the old Croton aqueduct to a point in the middle line of Palisade avenue; thence northerly along the middle line of Palisade avenue to a point where it intersects the middle line of Ash-

burton avenue; thence easterly along the middle line of Ashburton avenue to the point or place of beginning.

Seventh ward.— Beginning at the point formed by the intersection of the middle line of Nepperhan avenue and the middle line of Elm street; thence easterly along the middle line of Elm street to the middle line of Linden street; thence southerly along the middle line of Linden street to the middle line of Maple street; thence easterly along the middle line of Maple street and its easterly prolongation to the middle line of Van Cortlandt Park avenue; thence southerly along the middle line of Van Cortlandt Park avenue to the middle line of Spruce street; thence easterly along the middle line of Spruce street to the middle line of Alder street; thence northerly along the middle line of Alder street to the middle line of Elm street; thence easterly on a line drawn at right angles with the middle line of Alder street to the middle line of the lands of the Putnam division of the New York Central and Hudson River railroad company; thence southerly along the said middle line of said railroad lands to a point where said middle line is intersected by a line drawn at right angles with Rumsey road from the intersection of the middle line of Rumsey road with the middle line of Hillcrest avenue; thence westerly along the middle line of Hillcrest avenue to a point in the northerly line of lands of the American real estate company, distant about four hundred and forty-three feet east of Van Cortlandt Park avenue; thence westerly along the said northerly line of said American real estate company's land to the middle line of Van Cortlandt Park avenue; thence westerly in a straight line to the point formed by the intersection of the middle line of Undercliff street with the middle line of the lands of the Yonkers branch of the Putnam division of the New York Central and Hudson River railroad company; thence westerly along the middle line of Undercliff street to the center line of South Broadway; thence northerly along the center line of South Broadway to the southerly intersection of the said center line of South Broadway with the center line of New Main street; thence northerly along the center line of New Main street to the center line of Nepperhan avenue; thence northeasterly along the center line of Nepperhan avenue to the point or place of beginning.

Eighth ward.— Beginning at the point where the middle line of lands of the Putnam division of the New York Central and

Hudson River railroad company intersects the southerly line of the city of Yonkers, and running thence westerly along the southerly line of the city of Yonkers to the middle line of South Broadway; thence northerly along the middle line of South Broadway to the middle line of Undercliff street; thence easterly along the middle line of Undercliff street to the middle line of lands of the Yonkers branch of the Putnam division of the New York Central and Hudson River railroad company; thence easterly in a straight line to the point where the middle line of Van Cortlandt Park avenue is intersected by the northerly line of lands of the American real estate company, if extended across said Van Cortlandt Park avenue; thence easterly along the said northerly line of said American real estate company's land to the middle line of Hillcrest avenue; thence easterly along the middle line of Hillcrest avenue to the middle line of Rumsey road; thence easterly in a line drawn at right angles with the middle line of Rumsey road to the middle line of the lands of the Putnam division of the New York Central and Hudson River railroad company; thence southerly along the middle line of said railroad to the point or place of beginning.

Ninth ward.—Beginning at the corner formed by the intersection of the southerly line of the city of Yonkers with the easterly line of the said city, and running thence westerly along the southerly line of the city of Yonkers to the middle line of the lands of the Putnam division of the New York Central and Hudson River railroad company; thence northerly and northwesterly along said middle line of said railroad lands to the middle line of Palmer avenue; thence easterly along said middle line of Palmer avenue to the easterly line of the city of Yonkers; thence southerly along the easterly line of the city of Yonkers to the point or place of beginning.

Tenth ward.—Beginning at the point where the middle line of Ashburton avenue intersects the middle line of the Nepperhan river, and running thence northerly along the middle line of the Nepperhan river to the northerly line of the city of Yonkers; thence easterly along the northerly line of the city of Yonkers to the easterly line of the city of Yonkers; thence southerly along the easterly line of the city of Yonkers to the middle line of Palmer avenue; thence westerly along the middle line of Palmer avenue to the middle line of the lands of the Putnam division of the New York Central and Hudson River railroad company; thence

southerly along the said middle line of the said railroad lands to the middle line of Yonkers avenue; thence westerly along the middle line of Yonkers avenue to the middle line of Ashburton avenue; thence northwesterly and westerly along the middle line of Ashburton avenue to the point or place of beginning.

ARTICLE II.

OFFICERS.

Section 1. There shall be elected by the qualified electors of the city, in addition to such other officers as are or may be provided by law, a city judge and four justices of the peace. The term of office of the city judge shall be six years and the term of the justices of the peace shall be four years. The city judge and the four justices of the peace now in office shall continue in office for the remainder of the terms for which they were respectively elected. The city judge shall be an attorney of the supreme court of the state of New York, and shall be and continue a resident of the city of Yonkers during his term of office.

§ 2. There shall be appointed by the mayor, in addition to such other officers as are or may be provided by law, an inspector of buildings, an assistant inspector of buildings, commissioners of deeds to the number from time to time determined by the common council, and one constable from each ward of the city. The constables shall have the same powers and perform the same duties as constables of towns, and shall be entitled to like fees therefor. Before entering upon the duties of his office, each constable shall execute, with two sureties, to be approved by the mayor and comptroller, an undertaking, and file the same with the comptroller, by which said constable and his sureties shall jointly and severally agree to pay each and every person who may be entitled thereto all such sums of money as such constable may become liable to pay on account of any warrant, execution, or other precept which shall be delivered to him for service or collection, and that he will faithfully perform the duties of his office. All actions on any such instrument shall be commenced within one year from the expiration of the constable's term of office; and an action may be maintained thereon by and in the name of any person entitled to money collected by virtue of such warrant, execution or precept, or who may have sustained damages by default or misconduct of such constable. A copy of such instrument, certified by the comptroller

under the corporate seal of the city, shall be presumptive evidence in all courts of this state of the execution of the same by the constable and his sureties.

§ 3. Every person elected or appointed to any office under this act, before entering upon the same shall take the oath prescribed by the constitution of the state and file the same with the city clerk. The mayor, city judge, justices of the peace, supervisors, commissioners of deeds, and city clerk shall each also file an oath of office with the clerk of Westchester county. In case any person shall fail to file his oath as aforesaid, if an elective officer, within thirty days after the receipt of his certificate of election, and if an appointive officer, within fifteen days after receipt of his notice of appointment, the office shall be deemed vacant and shall be filled in the manner provided by law for the filling of a vacancy other than by expiration of term.

§ 4. Any elective officer, except city judge and justices of the peace, may be removed from office for misconduct or malversation in office by the governor in the same manner as sheriffs. Justices of the peace may be removed from office for cause in the same manner as justices of the peace of towns. A supervisor or an assessor may also be removed from office by the common council for misconduct or malversation in office by vote of three-fourths of all members of the common council, after notice and an opportunity to be heard upon the charges preferred against him. Nothing herein shall restrict the right of removal otherwise vested in any board or officer of the city, but the powers herein conferred shall be additional to any such other provisions for removal.

§ 5. The offices of receiver of taxes and deputy receiver of taxes are abolished, and the city treasurer shall take over and have custody of all the books, papers and records of such officers.

ARTICLE III.

COMMON COUNCIL.

Section 1. In addition to all other powers conferred by law the common council shall have power:

1. To provide for laying out, opening, constructing, extending, widening, altering, straightening, altering of grade, grading, regrading, paving, repaving, surfacing, resurfacing, narrowing, discontinuing, improving, repairing, maintaining, caring for, cleaning, sprinkling, watering and flushing the public streets, and

acquiring all lands or easements necessary for any or all such purposes.

2. To provide for constructing, flagging, surfacing, altering, repairing, maintaining, caring for and cleaning sidewalks, crosswalks, drains, gutters and curbs in the public streets.

3. To provide for constructing, operating and maintaining by the city in, along and under the public streets, highways, parks, squares and public places and in, along and under any real estate owned by the city, or acquired for the purpose, of conduits or ducts for electrical wires and cables and to cause to be installed therein electrical wires and cables constituting part of any system owned or operated by the city, and to permit the installation therein upon uniform rates, terms, rentals and conditions, which shall be approved by the board of estimate and apportionment, of electrical wires and cables, owned, used or operated by any corporation authorized and empowered to construct, own, use, or maintain a line or lines of electric telegraph, telephone or signal system within the city, or to manufacture and supply electricity, for producing light, heat or power. No franchise or right heretofore granted by the common council or under lawful authority to any corporation now operating in the city shall be hereby affected.

4. To provide for the planting and rearing and to protect and preserve shade and ornamental trees in the streets and public grounds, and to prohibit the injury, defacement or destruction of such trees.

5. To give names to streets, and to change such names in the manner and subject to the restrictions provided by law; to give numbers to lots and buildings and to change such numbers, and to compel the owners or occupants of any lot or building to place such numbers in a prominent place thereon.

6. Subject to the constitution and laws of the state, to regulate the use of streets and sidewalks by foot passengers, animals or vehicles; to regulate the speed at which horses may be driven or ridden and at which vehicles may be propelled in the streets; to regulate processions or parades occupying or marching upon any street; to prevent encroachments upon and obstructions to the streets and to authorize and require their removal by the proper officers; to regulate the opening of street surfaces for purposes authorized by law; to regulate and control the laying, maintaining, alteration and repair of subways, conduits, mains and pipes

in and under the streets; to require cables and wires in the public streets, to be placed underground; to regulate and prevent the throwing or depositing of ashes, garbage or other filth or rubbish of any kind upon the streets; to regulate the use of the streets for signs, sign posts, awnings, awning posts, horse troughs, urinals, posts for telegraph or other electric wires, trolley poles and other purposes; to regulate public criers, advertising, noise, steam whistles, and ringing bells in the streets; to regulate the exhibiting of banners, placards or flags in or across the streets or from houses or other buildings; to regulate the exhibition of advertisements or handbills along the streets; and to make such regulations in reference to the running of stages, omnibuses, trucks and cars as may be necessary for the convenient use of the streets and of piers, wharves or stations. Whenever the word "street" or the plural thereof occurs in this section it shall be deemed to include all that is included by the terms "street, avenue, road, alley, lane, highway, boulevard, concourse, public square and public place," or the plurals thereof respectively, whenever the word "vehicle" or the plural thereof occurs in this section it shall be deemed to include wagons, trucks, carts, cabs, carriages, stages, omnibuses, motors, automobiles, street cars, locomotives, bicycles, tricycles, sleighs or other conveyances for persons or property. The common council shall not have power to authorize the placing or continuing of any encroachment or obstruction upon any street or sidewalk, except the temporary occupation thereof during the erection or repairing of a building on a lot opposite the same, nor shall they permit the erection of booths and stands within stoop lines, except for the sale of newspapers, periodicals, fruits and soda water, and with the consent in such cases of the owner of the premises. The common council shall not pass any special ordinance in relation to any of the matters mentioned in this section. All ordinances in relation thereto shall be general ordinances which may either apply throughout the whole city or throughout specified portions thereof. Nothing herein contained shall be construed to prevent the common council from providing by special ordinance for the erection or maintenance on the streets or sidewalks within the city of Yonkers of fountains, public comfort stations, urinals, public baths, or other like structures maintained by the public authorities; for the establishment of which the said common council is hereby empowered to pro-

vide. All general ordinances relating to authorized structures, encroachments or obstructions in or upon the streets or sidewalks by persons other than the authorities of the city of Yonkers, or other public authorities, shall fix a definite license fee for every such authorized structure, encroachment or obstruction, according to the character, extent and duration thereof, and shall provide for the issuing of revocable licenses therefor, which shall be according to an established form and shall be regularly numbered and duly registered as shall be prescribed by the common council.

7. To establish and maintain a public pound; to restrain the running at large of animals and poultry; to authorize the impounding and sale of the same for the penalty incurred and the fees and costs thereof; to prescribe the manner of impounding or selling animals and poultry impounded; and to collect all costs and expenses from the owners thereof.

8. To grant rights and franchises to use the streets, highways and public places or any part thereof, or the space above or underneath them for any purpose whatever, upon such terms as it may deem proper and as may be permitted by law.

9. To provide for constructing, extending, altering, repairing, rebuilding, maintaining and caring for, public sewers and drains within or without the limits of the city, and the drainage of swamps and lowlands.

10. To provide for constructing, building, altering, rebuilding, repairing, maintaining and caring for sewerage disposal plants within or without the limits of the city.

11. To provide for constructing, building, rebuilding, repairing, maintaining and caring for bridges, arches and culverts.

12. To provide for constructing, altering and repairing the walls along the banks of any river, stream or water course within the city and improving, altering, changing, repairing and cleaning the beds and banks thereof.

13. To establish and define the boundaries and grade of the natural water courses and streams in the city and to prevent obstructions and encroachments in or upon the same, and to provide for and compel the removal of all obstructions, encroachments and deposits in and to the same.

14. To provide for laying out, enlarging, opening, ornamenting, equipping, improving, maintaining, caring for, and regulating the use of public squares, parks and playgrounds.

15. To provide for acquiring, constructing, maintaining and regulating the use of public markets.

16. To provide for acquiring, constructing, building, altering, enlarging, improving, repairing, equipping, furnishing, maintaining and caring for buildings for schools, libraries, hospitals, dispensaries, sanitariums, public baths, fire houses, police stations, lock-ups, a city hall, and for other city purposes, and acquiring sites therefor.

17. To erect and continue the erection upon lands within the city acquired and used for park purposes and known as Washington Park of a building or buildings for city purposes.

18. To provide for the leasing of buildings, or parts of buildings, for city purposes for a period not exceeding five years.

19. To provide for acquiring, constructing, building, rebuilding, altering, enlarging, improving, maintaining, caring for and regulating the use of public piers, docks and wharves; and to establish rates and fees for wharfage or dockage.

20. To prevent the incumbrance and obstruction of the navigable waters of the city of Yonkers, and to provide for the removal and sale of any such obstruction; subject to the constitution and laws of the state or of the United States, to fix and locate a line in the Hudson river, beyond which no pier or wharf shall be built or extended from the easterly shore of said river; also to fix and locate a line therein beyond which no bulkhead shall be constructed. Such lines shall be fixed by the making and adopting of a map showing such lines and their directions and distances from known monuments. After such a map shall be adopted, it shall be unlawful to construct any bulkhead, pier or wharf beyond such lines respectively. Such lines may be changed in the same manner, from time to time, by a majority vote of the common council.

21. To provide for lighting the public streets, squares, parks, playgrounds, public piers, docks and wharves, and public buildings of the city.

22. To provide for maintaining, operating, extending, improving and repairing the water works system of the city; acquiring and developing additional source of water supply, building, operating and maintaining reservoirs, water towers, aqueducts, pumping stations, filtration beds, and acquiring the lands needed therefor, within or without the limits of the city, and to regulate the use of water.

23. To provide for maintaining a fire department, and acquiring horses, fire engines and other apparatus for the use of such department.

24. To provide for a police department.

25. To establish and maintain public schools.

26. To establish and maintain libraries, hospitals, dispensaries, sanitariums and public baths.

27. Subject to the constitution and laws of the state, to provide for licensing and otherwise regulating auctioneers, pawnbrokers, junk dealers, dealers in second-hand articles, hawkers, vendors, pedlers, scalpers in coal freights, dirt carts, public cartmen, truckmen, hackmen, cabmen, expressmen, car drivers, boot-blacks, porters, scavengers, sweepers, theaters, bowling-alleys, shooting-galleries, billiard saloons, skating rinks, circuses, menageries, and other places of amusement and common shows; bone boiling, fat rendering and other noxious businesses. The common council shall establish uniform fees for licenses and shall prescribe the manner in which such licenses shall be issued.

28. To regulate the rates of fare to be taken by owners or drivers of hackney coaches, carriages, motors, omnibuses or other vehicles for public hire.

29. Subject to the constitution and laws of the state to provide for licensing and otherwise regulating the carting, carrying, keeping, storing, selling or using of gunpowder, dynamite, nitroglycerine and other explosives, kerosene, petroleum and other combustible and dangerous materials, and to prevent the manufacture thereof and the refining or preparing of combustible oils or fluids, or bone boiling, fat rendering or other noxious business, either within the limits of the city or except in a specified area.

30. To regulate the sale of milk and provide for the inspection thereof, and of the dairies where the same is produced, to fix the fees for such inspection to be paid by the producer or seller, and to prohibit the sale of milk within the city without such inspection.

31. To prohibit the use within the city of steam boilers, except upon such conditions and regulations regarding safety to life and property as it shall prescribe; to provide for the inspection and testing of steam boilers; to provide for the appointment and to prescribe the duties of an inspector of boilers and steam engines; to provide for the licensing of steam engineers or persons managing or operating steam engines or boilers.

32. To regulate, or to prohibit, the emission of smoke, noxious gas, deposits or other pollution from buildings, engines, boats and from all other sources.

33. To regulate and prescribe the manner of weighing and marketing hay, straw, wood, coal and other commodities, and to regulate the inspection and sealing of weights and measures.

34. To cause to be made and to adopt a map of the city, subdivided into wards or sections of wards, and to cause to be designated thereon and to be numbered the different lots and parcels of land contained in such sections, with the names of the owners thereof, as far as can be ascertained.

35. To adopt building ordinances, and to prohibit the erection, construction or repair of buildings, docks, wharves and piers within the city except in compliance therewith; to fix and from time to time extend the area to be included in the fire limits, and to prohibit the erection or construction therein of buildings, except in compliance with such ordinances as to construction and material as it may prescribe. The common council shall not pass any special ordinance in relation to any of the matters mentioned in this subdivision. All ordinances in relation thereto shall be general ordinances which may be either applied throughout the whole city or throughout specified portions thereof.

36. To regulate the use of all buildings used for the purposes of public assemblage, and to prohibit the use of such buildings except in compliance with its requirements for the safety and security of persons therein; to raze or demolish any building or erection which by reason of fire or any other cause may become dangerous to human life or health.

37. To provide for the collection, removal and disposal of garbage, ashes, dead animals and rubbish; all contracts therefor shall be made pursuant to section one hundred and twenty of chapter four hundred and seventy-three of the laws of nineteen hundred and six, and may be for a period not exceeding five years; to provide for the erection of crematories or other apparatus for the burning and destruction of garbage, dead animals and other substances, and acquiring sites therefor.

38. To provide for insuring against fire of city property.

39. To determine the number of commissioners of deeds in the city.

§ 2. An ordinance making or authorizing a sale or lease of personal property belonging to the city shall, before it takes effect,

be submitted to and approved by the board of estimate and apportionment.

§ 3. Every ordinance of the common council imposing a penalty or fine or imprisonment, and every amendment thereto, must before it takes effect be published at least once in each week for two successive weeks in the official newspaper or newspapers of the city; provided that in case of insurrection, riot, pestilence, conflagration or other public necessity requiring immediate operation of such ordinance, it shall take effect as soon as proclamation thereof has been made by the mayor, and the same has been posted in two public places in each ward of the city.

ARTICLE IV.

INDEBTEDNESS.

Section 1. Of the revenue bonds or certificates of indebtedness of the city of Yonkers, issued prior to January first, one thousand nine hundred and thirteen, for money borrowed after the adoption of the annual estimate, in anticipation of the receipt of the taxes and revenues for any fiscal year, an amount not exceeding fifteen per centum of the tax budget for such year may be payable at a fixed time not more than five years from the date of issuance. Any other revenue bonds or certificates of indebtedness of the city of Yonkers, issued for money borrowed in anticipation of the receipt of the taxes and revenues for any fiscal year, shall be payable at a fixed time not more than eight months from the date of issuance.

§ 2. Bonds of the city may be issued in coupon or registered form. Registered bonds shall be divided into, and issued in, such amounts as the registered owners shall desire, provided that the city shall not be required to issue any bond for a less sum than one hundred dollars. The holder of any coupon bond or bonds of the city heretofore or hereafter issued may surrender the same to the comptroller, with a written request that there be issued in lieu thereof a registered bond or bonds, and the proper officers of the city shall thereupon execute and deliver a registered bond or bonds to such holder, his assigns or legal representatives. Any registered bond may be transferred upon the books of the city by the registered owner or his duly authorized attorney, and upon the surrender thereof for cancellation the proper officers of the city shall execute and deliver in lieu thereof a new bond or bonds. All

bonds issued and exchanged for bonds so surrendered shall be payable upon the same terms and at the same time as the bonds for which they shall be exchanged. All bonds so surrendered shall forthwith upon the delivery of the bonds for which they shall be exchanged be cancelled by the comptroller and be preserved, and the comptroller shall keep a record of all bonds surrendered for exchange, and by whom surrendered, and of all bonds issued in exchange therefor and to whom issued, containing the dates, numbers, and the amounts of said bonds, and a reference to the laws or resolutions under which they were issued. Sections nine and ten of the general municipal law shall not apply to the city of Yonkers.

§ 3. The comptroller upon offering any bonds of the city at public sale may require as a condition precedent to the reception and consideration of the proposal of any bidder, that he shall deposit with the comptroller a certified check drawn to the order of the comptroller on a solvent bank or trust company for an amount not exceeding two and one-half per cent of the amount of bonds bid for by such bidder, and the amount of such deposit shall be forfeited to and retained by the city as liquidated damages in the case of successful bidders who shall refuse or neglect to comply with the terms of their bids.

ARTICLE V.

ASSESSMENT AND COLLECTION OF TAXES.

Section 1. The assessors of the city shall be the board of assessors thereof. The board of assessors shall annually elect one of its members president thereof and may adopt rules for the transaction of its business.

§ 2. The assessors shall assess in the manner prescribed by law all property, real and personal, in said city, not exempt by law from taxation, shall make a separate assessment roll for each ward and shall complete the assessment rolls on or before the first day of July each year. Upon such assessment rolls, the assessed value of real estate shall be set down in two columns; in the first column shall be given, opposite each separately assessed parcel of real estate, the sum for which such parcel under ordinary circumstances, would sell if wholly unimproved; and in the second column shall be set down the sum for which the said parcel under ordinary circumstances would sell, with the improvements if any, thereon. Upon the completion of the assessment rolls the

assessors shall deposit them in their office and shall publish in the official newspaper or newspapers of the city once in each week for two successive weeks a notice stating that they have completed the assessment rolls and have deposited them in their office where they may be examined by any person until the third Tuesday of July next following and that they will meet at their office on said third Tuesday in July and on the nine successive days thereafter exclusive of Sundays and holidays, between the hours of nine o'clock in the morning and nine o'clock in the evening to review the assessments. On the day following the first publication of such notice and on every day thereafter, except Sundays and holidays, until and including said third Tuesday in July, the assessment rolls may be examined by any person between the hours of nine o'clock in the morning and five o'clock in the afternoon. On the third Tuesday in July and on the nine successive days thereafter, exclusive of Sundays and holidays, the assessors, or a majority of them shall meet at their office between the hours of nine o'clock in the morning and nine o'clock in the evening and shall hear and determine all complaints in relation to their assessments. At any time prior to the fifteenth day of September, upon giving three days' personal written notice to the party in interest and upon giving such party in interest an opportunity to be heard, the assessors may add to the assessment rolls any real property, or the name of the owner of any personal property that may have been omitted from the assessment rolls and may increase the assessed valuation of any real or personal property therein. When finally completed, an oath substantially in the following form must be written or printed upon or attached to each of the assessment rolls and subscribed and sworn to by the assessors or a majority of them before an officer authorized to administer oaths — namely: "We, the undersigned do severally depose and swear that we have set down in the foregoing assessment roll all the real estate situated in the ward, according to our best information, and that with the exception of those cases in which the value of said real estate has been changed by reason of proof produced before us, and with the exception of those cases where the value of any special franchise has been fixed by the state board of tax commissioners, we have estimated the value of the said real estate at the sums which the majority of the assessors have decided to be the full value thereof; and also that the assessment roll contains a true statement of the aggregate amount of taxable personal

estate of each and every person or corporation named in such roll, over and above the amount of debts due from such person or corporation, respectively, and excluding such stocks as are otherwise taxable, and such other property as is exempt by law from taxation, at the full value thereof, according to our best judgment and belief." After being sworn to as aforesaid the assessment rolls must on or before the first day of October in each year, be delivered to the city clerk with duplicate copies thereof, and the city clerk shall under the direction of the common council correct all manifest clerical errors in the description or valuation of property in the assessment rolls and shall certify and deliver a copy of the roll of each ward to the supervisor of the ward on or before October fifteenth to be by him delivered to the board of supervisors of the county of Westchester; and each of such supervisors shall collect the fee allowed by law for such copy, and shall pay the same into the city treasury. The board of supervisors of the county of Westchester, at their annual meeting, after receiving certified copies of said assessment rolls, shall equalize the assessment rolls of the several towns of the said county, as provided by law, and by resolution declare and direct the amount of tax to be levied in the said city for state and county purposes, and a copy of such resolution, certified by the chairman of said board of supervisors, and attested by the county seal of said county, shall forthwith be filed with the city clerk and the amount of such state and county tax shall be included in the annual estimate of the city and shall be paid to the county treasurer, or be deposited to his order in such bank in the city as he may designate, on or before the twentieth day of May in the year, or as soon thereafter as may be.

§ 3. Immediately after the adoption of the annual estimate the common council shall cause the amount of the tax budget to be apportioned and extended by the city clerk opposite the several valuations of real and personal property appearing in the assessment rolls. When such apportionment and extension is completed such assessment rolls shall constitute the tax roll and the common council shall confirm the same and levy and assess the taxes contained therein. The city clerk shall enter on the minutes of the common council the date, hour and minute of such confirmation; and from the time of such confirmation the taxes embraced in such roll shall be a lien on the real property against which the same are levied superior to all other liens and incum-

brances. After the confirmation of the tax roll there shall be annexed to it a warrant signed by the mayor, or by a majority of the members of the common council, under the seal of the city commanding the city treasurer to collect the taxes set forth therein; and it shall thereupon be delivered by the city clerk to the city treasurer.

§ 4. Water rents, expenses of repairing and removal of snow and ice from sidewalks, and all other items, including the additions thereto, inserted in the annual tax roll against real property, become part of the annual tax upon the respective lots or parcels of land against which such items are charged, and the whole thereof becomes one tax and must be collected as such, except that the treasurer may in his discretion receive the annual tax upon the lot or parcel of land without some or all of the amounts added thereto.

§ 5. The common council with the consent of the board of estimate and apportionment may correct, cancel or remit any tax believed by it to have been erroneously assessed, and may remit, cancel or adjust the interest or penalty on any such tax, but it shall have no power to alter any valuations made by the assessors.

§ 6. Upon receiving the tax roll, the city treasurer shall immediately cause notice to be published in the official newspaper or newspapers of the city for five consecutive days (Sundays and holidays excluded) that said tax roll has been delivered to him and that all taxes are due and payable at his office. For thirty days after the date of the first publication of such notice, all taxes assessed in the city on such tax roll may be paid to the city treasurer without any additional charge, percentage or penalty. To all taxes paid after such thirty days there shall be added interest at the rate of seven per centum per annum computed from the date of the first publication of such notice to the date of payment thereof.

§ 7. Upon the expiration of sixty days following the first publication of the notice provided for in section six of this article, it shall be the duty of the city treasurer to send, or cause to be sent, to the corporation counsel all cases of personal taxes embraced in the tax roll remaining unpaid; and the corporation counsel shall thereupon apply to the city court of Yonkers, to the county court of Westchester county, or to the supreme court, by petition on at least ten days' notice to enforce the payment of such tax. Such notice and a copy of the petition shall be served

personally upon the person, or upon any officer of the corporation, against whom such application may be made, and the court shall proceed to hear and determine the same in a summary manner, and without unnecessary delay; and if it shall appear that such application ought to be granted, judgment shall be rendered in favor of the said city for the amount of such tax, with interest at the rate hereinbefore provided, from the date of the first publication of the notice provided for in section six of this article with the costs and expenses of the proceeding, not exceeding fifty dollars, to be fixed by the court; and transcripts thereof may be filed and executions thereon issued and supplementary proceedings thereon had in the same manner as in judgments. All suits or proceedings for the collection of personal taxes hereafter sent to the corporation counsel by the city treasurer must be commenced within one year from the date of the first publication of the notice provided for in section six of this article.

§ 8. When any annual tax or any assessment for a local improvement, or any part of such tax or assessment, upon any parcel of real estate or any part thereof shall be due and shall have remained unpaid for three years after the date of the confirmation of such tax or assessment, and such tax or assessment, with the interest thereon, added to the amount of all other taxes and assessments that remain unpaid on such parcel of real estate, or any part thereof, with the interest thereon, shall amount to at least two-thirds of the last assessed valuation of such parcel of real estate, the city treasurer shall notify the corporation counsel of such fact; and thereupon, the corporation counsel shall give notice to the owner of such parcel of real estate that he intends to commence an action to foreclose the lien of all such taxes or assessments, as the case may be, unless such taxes or assessments are paid within thirty days from the date of service of the notice. The fee for serving such notice, not exceeding one dollar for each notice, must be added to and collected as part of said arrears. Such notice may be served personally on a person owning the land taxed or assessed, or it may be left at his residence or if he does not live in Yonkers may be served by mail in a securely closed envelope addressed to his last known residence or place of business. Such notice may be served on a corporation by serving the same personally on any officer of such corporation or by leaving the same at its office or if such corporation has no office in the city of Yon-

kers by mailing the same in a securely closed envelope directed to such corporation at its last known place of business. If the owner of such property is unknown or his residence, in the case of a person, or place of business in the case of a corporation, cannot be ascertained such notice may be served by leaving the same with any occupant of the premises, or if the premises be unoccupied, by posting the same in a conspicuous manner thereon. The service of such notice is not a condition precedent to the right to maintain the foreclosure action hereinafter provided for, and the failure to serve the same shall not be a defense to such action or to any other action or proceeding to enforce the payment of or to collect any tax or assessment.

§ 9. When any annual tax or assessment for a local improvement, or any part of such tax or assessment, upon any parcel of real estate or part thereof, shall be due and shall have remained unpaid for more than three years from the date of the confirmation of such tax or assessment, and such tax or assessment, with the interest thereon, together with all other taxes and assessments remaining unpaid thereon, including interest, shall amount to at least two-thirds of the last assessed valuation of such parcel of real estate, the liens of such taxes or assessments or both, together with the fees and interest thereon to the date of judgment, at the rates provided in this act, must be foreclosed in a court of record in the name of the city in the same manner as is provided for the foreclosure of mortgages; and the provisions of the code of civil procedure and the rules of practice and the law and practice of this state relating to the foreclosure of mortgages, and the provisions of the code of civil procedure relating to the service of process, the commencement and conduct of actions and the award of costs, apply to such actions for the foreclosure of tax liens. A conveyance upon a sale made pursuant to final judgment in an action to foreclose the lien of a tax or assessment vests in the purchaser all the right, title and interest and equity of redemption in and to the premises so sold of all the parties to said action, and of all parties claiming under them, or any of them, whose conveyance or incumbrance is executed or recorded subsequent to the filing of the notice of pendency of action. Separate taxes or assessments against the same lot or parcel of land may be foreclosed in one action, and where several lots or parcels of land are owned by the same person or persons, corporation or corporations, separate tax liens, or assessment liens, upon separate lots and parcels of land so owned

may, at the option of the corporation counsel, be foreclosed in one action. All annual taxes, local assessments, water rents and the cost of repairing, grading and removal of snow and ice from sidewalks which are a lien upon the lands so sold shall be satisfied from the proceeds of the sale of said lands so far as possible, and the final judgments in such actions may direct the cancellation or satisfaction of record of any lien or liens of any party or parties to the action. The board of estimate and apportionment may cause any lands sold under judgments in actions to foreclose tax liens, or assessment liens, to be bid for and purchased in the name of the city.

§ 10. The actions and proceedings to enforce the payment of personal taxes, and the foreclosure actions herein provided for, are in addition to the other methods provided for the collection of taxes or assessments in the city of Yonkers, and are not dependent upon them or any of them, or any step thereof.

§ 11. All unpaid taxes, assessments and water rents heretofore taxed, assessed, or charged by the city of Yonkers, together with the interest, fees, penalties and all other lawful charges accrued thereon which at the time this act takes effect are a lien upon the lands on which or in respect to which the same have been levied and all interest, fees, penalties and other lawful charges thereon under the provisions of this act, shall be and remain, until paid or satisfied, or set aside by the common council or a court of competent jurisdiction, a lien upon such lands superior to all liens or encumbrances. On all taxes on real or personal property, assessments and water rents heretofore taxed, assessed or charged, in addition to the interest accrued thereon at the time this act takes effect, there shall be added interest at the rate of seven per centum per annum to be computed from the date this act takes effect to the date of the payment of such taxes, assessments or water rates. After the first day of January, nineteen hundred and nine, the city treasurer shall deliver to the corporation counsel a list of every parcel of real estate on which any annual tax or assessment for a local improvement or any part of such tax or assessment has remained unpaid for more than three years from the date of the confirmation of such tax or assessment, and upon which parcels of real estate all unpaid annual taxes, assessments for local improvements, and water rates, with the interest and penalties thereon, shall equal at least two-thirds of the last assessed valuation of such respective parcels of real estate, and it shall there-

upon be the duty of the corporation counsel to collect all such taxes, assessments and water rents either by actions and proceedings to enforce the payment of personal taxes, or by foreclosure of tax liens, in the manner hereinbefore provided, or by such other proceedings as may be provided by law. Nothing in this section contained applies to an assessment heretofore set aside by the common council or a court of competent jurisdiction or to local assessments against the state of New York.

§ 12. In any action or proceeding to which the city of Yonkers, or any of its officers, is a party, and in which it is claimed that annual taxes, local assessments or water rents heretofore or hereafter taxed, assessed or charged, are due or owing the city, or in which it is sought to collect the same, the statute of limitations is not a bar or defense to the right of the city or its officers to recover or offset such taxes, assessments or water rents.

§ 13. An action cannot be maintained to recover real estate hereafter sold under a judgment in an action brought by the city of Yonkers to foreclose the lien of a tax or assessment, or to recover any right, title, interest or equity of redemption in or to real estate so sold unless the action therefor is commenced within one year after the service of notice of the entry of judgment of foreclosure and sale.

§ 14. Upon the receipt of the report of the comptroller as to the expense of a local improvement to be assessed upon the property benefited pursuant to an ordinance of the common council, the assessors, or a majority of them, must make an assessment upon all the lots and parcels of land within the portion or part of the city directed to be assessed, apportioning the expense upon each lot and parcel of land according to the benefit as nearly as can be ascertained which it is deemed to have received by the making of such improvement or work, and for that purpose must make out an assessment roll in which must be entered the names of the persons assessed so far as they can ascertain the same, and the amount assessed against them, respectively, with a brief description of the lots or parcels of land assessed. No assessor shall act if he is interested in any of the property to be assessed. If there are not three assessors not interested in the property directed to be assessed, the common council must appoint a special assessor or special assessors in place of the assessors so interested. The special assessor or assessors must make an affidavit and attach it to the assessment roll, to the effect that they

are not interested in any of the property to be assessed, and that they will faithfully and impartially discharge the duties imposed upon them; and their compensation must be fixed by the board of estimate and apportionment.

§ 15. Immediately after such assessment roll has been completed, the assessors shall deposit the same in their office for inspection by parties interested, and shall publish in the official newspaper or newspapers of the city once in each week for two successive weeks, a notice stating that they have completed the assessment roll, and have deposited it in their office where it may be examined by any person interested until the time specified in such notice, when they will first meet to hear the allegations and objections of all persons interested in the assessment.

§ 16. At the time and place designated in such notice the assessors or a majority of them must meet and hear the allegations and objections of all persons interested, who appear, and the assessment books must be open for the examination and inspection of all parties interested. The assessors may adjourn from time to time as deemed necessary, and may amend or correct such assessment roll as they deem proper.

§ 17. When completed, an oath substantially in the following form must be written or printed upon or attached to the assessment roll, and be signed and sworn to by the assessors or three of them, namely: "We, the undersigned, the assessors of the city of Yonkers, being severally sworn, depose and say, and each for himself says, that the foregoing assessment roll was made by them in pursuance of an ordinance of the common council; that due legal notice of their meeting was given, and the same was by them adopted, after such notice and allegations thereunder, and is, according to the best of their knowledge and belief, a just and true assessment as against the persons or property to be benefited, and according to the benefit derived." And they must sign a certificate substantially in the following form, which must also be written or printed upon or attached to the assessment roll: "We do hereby certify that the foregoing assessment roll is a true record of our determination of the same, after having heard allegations thereon, and we have fixed the amount assessed against the respective persons and property therein named as therein set forth, and the same is just and true." And thereupon the assessment roll must be delivered to the city clerk.

§ 18. When a local assessment roll is delivered to the city clerk,

he must report it to the common council at its next meeting. The common council shall give notice, to be published twice in the official newspaper or newspapers, that such assessment roll is filed with the city clerk, and that at a time to be specified in such notice, which shall not be less than ten days from the first publication thereof, it will proceed to a consideration of such assessment roll. Prior to said day, any person may file with the city clerk written objections to such assessment roll, or any part thereof, which objection shall be read before the common council before any action shall be taken on such assessment roll. At the time so appointed, or at some other time, to which it may adjourn, for that purpose, the common council, or a committee thereof, may hear the allegations of any person interested, who shall have filed such objections and may take proof in relation thereto. Such allegations and proof shall be confined to the matters stated in such written objections. The common council may thereupon either confirm such assessment or may set the same aside, and order a new assessment. Whenever the common council shall confirm an assessment for a local improvement the city clerk shall enter on the minutes of the common council the date, hour and minute of such confirmation and from the time of such confirmation the assessments embraced in the assessment roll shall be a lien on the real property against which the same are assessed, superior to all other liens and incumbrances. After the roll is confirmed it must be delivered by the city clerk to the city treasurer.

§ 19. The common council, with the consent of the board of estimate and apportionment, may correct, cancel, or remit any assessment for a local improvement believed by it to have been erroneously assessed, and may remit, cancel or adjust the interest or penalties on any such assessment.

§ 20. The common council has the power when in its judgment there is any irregularity, omission, error, or lack of jurisdiction in any of the proceedings relating thereto, to set aside the whole of a local assessment, and thereupon to cause a re-assessment to be made. In such case, it shall pass an ordinance designating the public improvement involved, the whole expense thereof, including all interest thereon to the date of the passage of such ordinance on notes or certificates of indebtedness or assessment bonds issued by the city to pay the expense of such improvement and the part or portion of the city deemed to be benefited thereby; and it may direct the assessors to assess the lots and parcels of land in such

territory described, for such expense, according to the benefits received, and proceed in all respects as in cases of local assessments; and such re-assessment has the same valid and binding force as if it had originally been properly made. An ordinance setting aside the whole of a local assessment and directing a re-assessment thereof, must provide that any moneys paid on the assessment set aside, with interest at a rate determined by the common council not exceeding the rate received by the city on such money, must be credited on the amount of the new assessment against the property on which the assessment was paid, and that in case the amount so paid exceeds the amount re-assessed on the same property, such surplus, including the interest aforesaid, must be paid to the person who may have paid the same.

§ 21. A local assessment, if payable in one sum, or the first installment if payable in installments, becomes due on the first day of the month following the month in which the assessment roll is received by the city treasurer, if it is received on or before the fifteenth day of the month; and if received after the fifteenth day of the month, then such assessment or installment becomes due and payable on the fifteenth day of the month following the month in which the assessment roll is received; and if payable in installments, succeeding payments become due in each succeeding year on the day and month the first installment became due. If any assessment is payable in installments there shall be added to the amount of each installment subsequent to the first installment, interest at the rate of six per centum per annum computed from the date when the first installment became due to the date when such subsequent installment shall become due, unless such subsequent installment shall be previously paid, in which event such interest shall be computed to the date of payment. To any assessment or installment thereof paid after the same shall become due, there shall be added interest at the rate of seven per centum per annum, computed from the date when the same became due to the time of payment, in addition to the interest to be added to any installment as hereinbefore provided.

§ 22. At least five days before any assessment or installment thereof, is payable, the city treasurer must give notice by publication for two successive days in the official newspaper or newspapers, requiring the persons assessed or the owners or occupants of the lots assessed to pay the same to him at his office, when due.

he must report it to the common council at its next meeting. The common council shall give notice, to be published twice in the official newspaper or newspapers, that such assessment roll is filed with the city clerk, and that at a time to be specified in such notice, which shall not be less than ten days from the first publication thereof, it will proceed to a consideration of such assessment roll. Prior to said day, any person may file with the city clerk written objections to such assessment roll, or any part thereof, which objection shall be read before the common council before any action shall be taken on such assessment roll. At the time so appointed, or at some other time, to which it may adjourn, for that purpose, the common council, or a committee thereof, may hear the allegations of any person interested, who shall have filed such objections and may take proof in relation thereto. Such allegations and proof shall be confined to the matters stated in such written objections. The common council may thereupon either confirm such assessment or may set the same aside, and order a new assessment. Whenever the common council shall confirm an assessment for a local improvement the city clerk shall enter on the minutes of the common council the date, hour and minute of such confirmation and from the time of such confirmation the assessments embraced in the assessment roll shall be a lien on the real property against which the same are assessed, superior to all other liens and incumbrances. After the roll is confirmed it must be delivered by the city clerk to the city treasurer.

§ 19. The common council, with the consent of the board of estimate and apportionment, may correct, cancel, or remit any assessment for a local improvement believed by it to have been erroneously assessed, and may remit, cancel or adjust the interest or penalties on any such assessment.

§ 20. The common council has the power when in its judgment there is any irregularity, omission, error, or lack of jurisdiction in any of the proceedings relating thereto, to set aside the whole of a local assessment, and thereupon to cause a re-assessment to be made. In such case, it shall pass an ordinance designating the public improvement involved, the whole expense thereof, including all interest thereon to the date of the passage of such ordinance on notes or certificates of indebtedness or assessment bonds issued by the city to pay the expense of such improvement and the part or portion of the city deemed to be benefited thereby; and it may direct the assessors to assess the lots and parcels of land in such

territory described, for such expense, according to the benefits received, and proceed in all respects as in cases of local assessments; and such re-assessment has the same valid and binding force as if it had originally been properly made. An ordinance setting aside the whole of a local assessment and directing a re-assessment thereof, must provide that any moneys paid on the assessment set aside, with interest at a rate determined by the common council not exceeding the rate received by the city on such money, must be credited on the amount of the new assessment against the property on which the assessment was paid, and that in case the amount so paid exceeds the amount re-assessed on the same property, such surplus, including the interest aforesaid, must be paid to the person who may have paid the same.

§ 21. A local assessment, if payable in one sum, or the first installment if payable in installments, becomes due on the first day of the month following the month in which the assessment roll is received by the city treasurer, if it is received on or before the fifteenth day of the month; and if received after the fifteenth day of the month, then such assessment or installment becomes due and payable on the fifteenth day of the month following the month in which the assessment roll is received; and if payable in installments, succeeding payments become due in each succeeding year on the day and month the first installment became due. If any assessment is payable in installments there shall be added to the amount of each installment subsequent to the first installment, interest at the rate of six per centum per annum computed from the date when the first installment became due to the date when such subsequent installment shall become due, unless such subsequent installment shall be previously paid, in which event such interest shall be computed to the date of payment. To any assessment or installment thereof paid after the same shall become due, there shall be added interest at the rate of seven per centum per annum, computed from the date when the same became due to the time of payment, in addition to the interest to be added to any installment as hereinbefore provided.

§ 22. At least five days before any assessment or installment thereof, is payable, the city treasurer must give notice by publication for two successive days in the official newspaper or newspapers, requiring the persons assessed or the owners or occupants of the lots assessed to pay the same to him at his office, when due.

§ 23. Any tenant, or other person, or a corporation, having a divided or undivided interest in any land may pay all or any part of the taxes or assessments due on such land, with the interest or charges due or charged thereon, and recover by action against any person or corporation the amount, or proportion of the amount, so paid, which such person or corporation ought to have paid; or may retain the same from any rent due or accruing from him or it to such person or corporation for the land so taxed.

§ 24. Any tenant in common of land upon which taxes or assessments for local improvements are due, or any person having an undivided interest in such land, may pay such part of the taxes or assessments for local improvements due with interest or charges due or charged thereon as shall bear the same proportion to the whole of the taxes or assessments for the local improvements due with the interest or charges due or charged thereon as his interest in common, or undivided interest, in such lands bears to the whole thereof, and upon making such payment, such tax or assessment shall cease to be a lien on such undivided interest or interest of such tenant in common.

§ 25. Upon the application in writing of any person desiring to pay the tax or assessment on or to redeem from sale heretofore made for an unpaid tax or assessment, a part of any lot of land, or one or more lots of land, upon which, with other lots of land, a tax or assessment has been levied, the assessors shall apportion in writing the tax or assessment on such lot or lots of land, or the amount for which the same shall have been sold, between the land which the applicant desires to pay the tax or assessment upon, or to redeem, and the remaining part thereof, and like proceedings may be had thereafter as if the land had been separately assessed, and a separate amount of tax or assessments levied upon each. Such apportionment shall be made in duplicate, one copy filed with the comptroller and the other filed with the treasurer. But no apportionment shall be made of any taxes or assessments upon any lot or plot of land unless a map of the entire lot or plot and the portion or portions thereof for which the apportionment is asked shall have been filed with the board of assessors; and a copy thereof shall be filed with the treasurer after the apportionment is made.

§ 26. When any land shall have been heretofore sold for nonpayment of taxes or assessments at any time within three years

after the last day of such sale, any person may redeem the land so sold by paying to the treasurer for the purchaser, the money paid by him at such sale, and any other tax or assessment on the same lands which the purchaser may have paid, with seven per centum per annum, in addition thereto, and any reasonable expense incurred by him in endeavoring to ascertain or give notice to any owner or mortgagee of such lands, provided that a statement of such taxes or assessments so paid, and such expenses made in items and verified by oath, shall have been filed with the treasurer. The receipt of the treasurer, countersigned by the comptroller, sealed with the corporate seal of the city, stating such payment and showing what land is redeemed, shall be legal evidence of such redemption. The money so received shall be paid to the purchaser, his legal representatives or assigns on demand. The treasurer shall immediately notify the purchaser of its receipt by him. The common council may cause to be cancelled and discharged of record any lease or certificate of sale of lands for any unpaid tax or assessment, held by the city, upon payment being made to the city treasurer of the amount paid by the city on the purchase of said lands, at the tax or assessment sale, with seven per centum per annum, in addition thereto, and all expenses which have accrued thereon. The common council shall cause to be published in the official newspaper or newspapers of the city once a week for six successive weeks previous to the expiration of such time for redemption, a notice that, unless the lands sold shall be redeemed within three years from the last day of such sale, they will be leased to the purchaser. If not so redeemed, the mayor and comptroller shall execute to the purchaser, his legal representatives or assigns, a lease, under the corporate seal of the city, of the lands so sold to him for the term for which the same were sold, and such lease shall be presumptive evidence that such tax or assessment was legally imposed, was not paid, the land was not redeemed, and of the regularity of the proceedings and sale. The owner of such lease may, by virtue thereof, obtain possession of the premises in the manner prescribed by law in relation to persons holding over when the premises have been sold under execution and may lawfully hold and enjoy the lands mentioned therein against all other persons until the time for which the same are leased shall be fully ended, except as in this act otherwise provided. The treasurer shall receive for the benefit of the city, one dollar for each lot so sold and making

the certificate of sale which shall be a part of the expense of the sale, and the purchaser shall pay to the corporation counsel for the benefit of the city two dollars and fifty cents for preparing each lease. No mortgagee, whose mortgage shall have been recorded before sale of any tax heretofore made, shall be divested of his rights in any land sold for taxes, unless the purchaser or those claiming under him shall give to him six months' notice, in writing, of such sale. Such notice must be served personally, if the mortgagee be a resident of the county of Westchester, or of a county adjoining, and if not such a resident, such notice must be served upon the owner of the land personally, if he be a resident of Westchester county or a county adjoining, and by depositing such notice in a post-office in the city, postage thereon paid, directed to the mortgagee at his place of residence as stated in the mortgage or assignment thereof. Within one month after the serving of such notice, the persons serving or causing the same to be served must file in the office of the city clerk a copy of the notice served, with the affidavit of some person who shall be certified by the officer before whom the affidavit shall be taken to be a credible person, proving the due service of the notice. The mortgagee may redeem such land at any time within six months after the service of such notice.

§ 27. Any lease of lands heretofore or hereafter made to the city, of lands purchased by the city upon the sale thereof, before this act takes effect, for non-payment of taxes or assessments may be assigned as the board of estimate and apportionment may direct, for a sum not less than the amount due upon said lands at the time of the sale, with the expenses and interest thereon at the rate of seven per centum per annum from the date of sale, together with any other unpaid taxes, assessments and water rates and accrued interest thereon, and also the value of any improvements which the city may have made on the real property affected by said lease up to the time of its assignment.

§ 28. All annual taxes, local assessments, water rents and expenses of repairing and removal of snow and ice from sidewalks heretofore or hereafter levied and assessed by the city of Yonkers or by its officers, together with interest, fees and penalties, are and shall be valid and effectual, notwithstanding any irregularity, omission, defect, or error not actually fraudulent, or voidable under the provisions of the tax law, in the proceedings relating to the same or any of them, or in the making, levying or assessment

of the same, or the failure or omission heretofore to make separate tax rolls for each ward; and all proceedings for the collection of the same are and shall be valid and effectual, notwithstanding any such irregularity, omission, defect or error in such proceedings or any of them. All proceedings for the insertion heretofore or hereafter in the annual tax rolls of expenses of cleaning and repairing sidewalks, water rents, and all other items, and all the proceedings preliminary to inserting the same, including the adding of interest or penalties, are and shall be valid and effectual, notwithstanding any irregularity, omission, defect or error in such proceedings or any of them. Nothing in this section contained applies to an assessment for a local improvement, heretofore set aside by the common council or a court of competent jurisdiction, or to local assessments against the state of New York; nor to any proceedings pending on January first, nineteen hundred and eight, for the review of taxes or assessments, under the provisions of the tax law.

ARTICLE VI.

LOCAL IMPROVEMENTS.

Section 1. In any ordinance directing the laying out, opening, constructing, extending, widening, altering, straightening, altering of grade, grading, regrading, paving, surfacing, narrowing, and discontinuing of public streets; the construction and altering of drains, gutters, crosswalks, sidewalks and curbs in the public streets; laying out, opening, enlarging, improving and ornamenting public squares and parks and acquiring the land necessary therefor; the constructing, reconstructing, extension and alteration of public sewers and drains within or without the limits of the city; the constructing and altering of sewerage disposal plants within or without the limits of the city; the constructing of bridges, arches and culverts, the common council shall have power to provide that the whole of the expense of any such improvement be assessed upon the property deemed benefited; or, subject to the approval of such ordinance by the board of estimate and apportionment before it shall take effect, that the whole, or a portion of such expense (which portion shall be specified in such ordinance) be borne by the city at large, and the remainder, if any, assessed upon the property deemed benefited. Every ordinance providing that the whole or any portion of the expense of such improvement shall be assessed upon the property deemed benefited shall describe the

portion of the city to be assessed, and shall provide that the city engineer shall make a plain and accurate map showing the several parcels of land within the district so established. In any ordinance which shall provide that the whole or any portion of the expense of any such improvement shall be assessed upon the property deemed benefited, the common council may provide that the assessments shall be payable in one installment, or in equal annual installments not exceeding ten.

§ 2. No ordinance directing the laying out, opening, extending, widening, altering, straightening, narrowing, or discontinuing of any public street shall be considered by the common council, until the improvements therein proposed shall have been first approved in writing, by at least a majority of the board of estimate and apportionment after a public hearing, of which hearing at least two days' notice shall have been given by publication twice in the official newspaper or newspapers of the city. After such approval by the board of estimate and apportionment, the common council must cause a map or plan of the proposed improvement to be made, and such map or plan deposited in the office of the city clerk, and after such deposit of such map or plan, shall cause such ordinance, with a notice of the time of a meeting of the common council to hear allegations in regard to such improvement, to be published in the official newspaper or newspapers of the said city, once in each week for two successive weeks; provided, however, that if such ordinance shall direct the discontinuing of any public street, such ordinance and notice shall be published for ten days in the official newspaper or newspapers of the said city. At the meeting of the common council appointed in such notice for the hearing of allegations, or at any adjournment thereof, the common council must hear the allegations of persons interested who appear; and at any subsequent meeting, the common council may take any action in regard to such ordinance that it may deem proper. Whenever, after publication of notice for hearing of allegations in regard to the improvement directed by any ordinance, such ordinance is amended by increasing or reducing the portion of the city to be assessed, such amended ordinance shall not be passed until after such ordinance and a notice shall have been published, and a meeting to hear allegations in regard to the improvement directed therein held as hereinbefore provided. The provisions of this section shall not apply to streets dedicated and the acceptance of such dedicated streets, as provided in article seven.

§ 3. Unless a claim for damages arising from the alteration of the grade or the discontinuance of a public street, or any part thereof, be filed with the corporation counsel by the owner of the building, structure or land alleged to be damaged thereby, or by his authorized attorney, within six weeks after an ordinance directing such improvement shall take effect, all such alleged damages shall be deemed to be waived and shall not afterwards be recoverable. No building or other structure shall be deemed to have sustained damages by reason of the alteration of the grade of any public street, highway or place, unless such building or structure shall have been built with reference to or to conform to the previously established grade; and no assessment heretofore levied or to be hereafter levied upon any land for the improvement of a public street, shall be subject to attack or declared void or reduced on account of the alteration of the grade of such street, highway or place, unless there was upon such land, prior to the improvement, a building or other structure built with reference to, or to conform with the previously established grade of such street. The corporation counsel, subject to the approval of the commissioner of public works and the board of estimate and apportionment, may compromise and settle, in the same manner as other claims against the city, any claim for damages arising from the alteration of the grade or the discontinuance of a public street.

§ 4. After any ordinance directing the laying out, opening, extending, widening, altering or straightening of any public street shall take effect, the commissioner of public works may acquire for the city, any of the lands needed for any of such improvements, by gift, or by purchase at a price approved by the board of estimate and apportionment.

§ 5. Whenever any ordinance directing the laying out, opening, extending, widening, altering, straightening, altering the grade, narrowing or discontinuing of any public street shall take effect and the lands needed for any such improvement shall not have been acquired as provided for in the last preceding section, or whenever a claim for damages alleged to have been caused by alteration of grade or discontinuance of a public street shall have been filed with the corporation counsel, and such claim shall not have been compromised and settled, as provided in section three of this article, the commissioner of public works by the corporation counsel shall apply to the county court of Westchester county, or

to the supreme court at a special term held in the judicial district in which said county shall then be situated, for the appointment of three persons as commissioners to inquire into and appraise the compensation to be paid for the property to be taken for such improvement or the damages occasioned by the alteration of grade or discontinuance of a public street as the case may be.

§ 6. Notice of the application, and of the time and place thereof, signed by the corporation counsel, shall be served upon the owners or occupants and the parties interested in the lands to be taken for such improvement, or alleged to be damaged by reason of an alteration of grade or discontinuance of a public street, by publishing the same in the official newspaper or newspapers of the city for at least eight days prior to the time named in such notice for the making of such application. The corporation counsel shall cause a copy of such notice to be served at least eight days prior to the time named therein for the making of such application, upon the owner or occupant of every lot or building, any part of which is to be taken for such improvement, or alleged to be damaged by an alteration of grade or discontinuance of a public street. Such service shall be made either by leaving the said notice with the owner or occupant personally, or by leaving the same with a person of suitable age and discretion, at the residence within the city, of such owner or occupant, or by mailing the same to him in a securely closed envelope addressed to him at his last known residence or place of business; or, if said lot or building shall be vacant or unoccupied and the owner thereof is unknown, then by affixing such notice conspicuously upon some part of said lot or building, at least eight days prior to the time specified for making such application. The court to which such application shall be made shall be deemed to have acquired jurisdiction of the matter of such proceedings and of all persons interested therein, by the publication of such notice as provided in this section; and the directions contained in this section for the service upon the owner or occupant shall be regarded as directory only.

§ 7. At the time and place specified in the notice, or at such other time to which the court may adjourn the proceeding, the commissioner of public works, by the corporation counsel, shall make application to said court for the appointment of three or more commissioners; and upon proof, by affidavit being filed of the publication of such notice, as required by the last preceding

section, and upon hearing the corporation counsel on behalf of the city and also the parties interested, who appear and desire to be heard, the court shall, by its order, appoint three or more freeholders of the city, who are not interested in any of the land required for such improvement, or alleged to be damaged by reason of an alteration of grade or discontinuance of a public street, nor of kin to any owner or occupant thereof, as commissioners to inquire into and appraise the compensation to be paid for the parcel or parcels of land to be taken for such improvement or damages as aforesaid. If it shall appear at any stage of said proceeding that any owner or party interested in any of the lands proposed to be taken for such improvement, or damaged as aforesaid, is an infant, or has been judicially declared to be incompetent to manage his affairs, and has no general guardian or committee, the court shall appoint a guardian ad litem of such person for the purposes of such proceeding. The corporation counsel shall forthwith file with the city clerk certified copies of all orders made in any such proceeding.

§ 8. The commissioners so appointed shall thereupon each take and subscribe an oath that he is not interested in any of the property to be taken for the purpose of such improvement, or alleged to be damaged as aforesaid, nor of kin to any person so interested, and that he will discharge the duties imposed upon him as such commissioner without favor or partiality. The commissioners shall thereupon cause a notice of the time and place at which they will meet to enter upon their duties, to be published for at least five successive days, exclusive of Sundays and holidays, in the official newspaper or newspapers of the city. At the time and place specified in the notice, or subsequently at an adjourned meeting, the said commissioners shall view the premises proposed to be taken, or alleged to be damaged as aforesaid, and shall receive and hear any legal evidence that may be offered by any party interested. After hearing the allegations and proofs of the several parties interested, they shall ascertain and award to the respective owners of the property to be taken, or damaged as aforesaid, and to all other persons interested in said property, such amount as in their opinion will be just compensation or damages to them, respectively, as the case may be. If there shall be a building or buildings situated wholly or partly upon any of the lands so to be taken, the commissioners shall also determine the value for removal of such building or buildings; or, if such building is only

in part upon the land so to be taken, then the value for removal of the part of the same that is upon the land to be taken.

§ 9. If any of the commissioners so appointed decline to serve, or be or become incapable of acting by reason of absence, death, sickness or other disability or incapacity, the court appointing such commissioners may, upon the application of any party interested, and upon a five days' notice to all parties who have appeared in the proceeding, appoint a commissioner or commissioners in place of those declining or unable to serve.

§ 10. The said commissioners or a majority of them shall, as soon as may be, make their written report upon the matters referred to them, in which report they shall describe with all practicable certainty the several parcels of land and the buildings, when the buildings are owned separately from the land, to be taken for such improvement, or damaged as aforesaid, and the names and residences of the owners thereof, and of all other persons having a legal interest therein, so far as the same have been ascertained by the commissioners, and the particular rights and interest respectively of such owners or other persons, so far as can be ascertained, and the amount of compensation to be paid to such respective owners or other persons interested in the property so to be taken or damaged as aforesaid. If any owners or other persons interested in the property are unknown, that fact shall be stated in said report. Such report, with all the evidence, if any, taken before such commissioners, shall be by them delivered to the corporation counsel.

§ 11. Upon the receipt of such report and evidence, the corporation counsel shall file the same with the city clerk for examination by parties interested, and shall give notice that such report is so filed, and that the commissioner of public works, at a time and place to be stated in such notice, will apply to the court for the confirmation of said report. A copy thereof shall be served either personally, or by mail upon all the parties interested in the property so to be taken, or damaged as aforesaid as the case may be, who have appeared in the proceeding, or upon the attorneys for such parties as have appeared by attorney, at least five days before the time stated in said notice for said application.

§ 12. At the time and place designated in the notice, or at such other time and place to which the court shall adjourn the matter, the court, upon proof of service of said notice as required by the last preceding section, and after hearing the corporation

counsel and all parties interested who shall desire to be heard upon such hearing, and who shall file in said court written objections to said report, or any part thereof, may by its order confirm the same, or separately without alteration, so much thereof as relates to any of the separate pieces or parcels of land referred to therein, if such report shall embrace more than one parcel of land; or with such alteration, except as to the amount of compensation or damages, as the case may be, as it shall deem proper; or it may set the said report aside as to all or any of the parcels of land embraced therein.

§ 13. If the said report be set aside, either in whole or in part, it shall be referred by the court to the same commissioners, or to new commissioners to be appointed by the court, to ascertain and appraise the compensation to be paid for the parcel or parcels of land to be taken, or to ascertain the damages occasioned by reason of an alteration of grade or the discontinuance of any public street, as the case may be, as to which said report shall have been set aside. The said commissioners shall thereupon proceed in the same manner as is hereinbefore provided for the original appraisal, to ascertain and appraise the compensation to be paid for such parcel or parcels of land to be taken, or the damages as aforesaid, as the case may be, and they shall make a like report thereon, and the same proceedings shall be had for the confirmation of such report, as hereinbefore provided for the original appraisal.

§ 14. Whenever any such report shall be confirmed in whole or in part, in the manner aforesaid, the corporation counsel shall cause a copy thereof, and of the order confirming the same, each duly certified, to be filed in the office of the city clerk. Thereupon the said report, or so much thereof as has been confirmed, and the confirmation thereof shall be final and conclusive, unless an appeal be taken therefrom within the time and in the manner provided by law for appeals from final orders.

§ 15. Where the whole of any lot required to be taken for such improvement is subject to a lease or other agreement, all the covenants and stipulations contained in such lease or agreement shall, upon the final confirmation of such report, as hereinbefore provided, cease and determine and be absolutely discharged. Where a part only of such lot shall be required and taken, as aforesaid, the said covenants and stipulations shall cease and determine and be discharged so far only as relates to

such part with respect to which compensation has been made to all parties interested therein.

§ 16. If a building is on any of the land taken for such improvement, the value of which building, for removal, shall have been ascertained and reported by the commissioners aforesaid, and such report as to such parcel shall have been finally confirmed in the manner aforesaid, the owner of such parcel of land, upon filing with the city clerk, within ten days after such final confirmation, a written notice that he elects to remove such building, may remove such building from the land so taken, at any time within thirty days after the final confirmation of such report of the said commissioners, or within such further time as the commissioner of public works may prescribe. If such owner shall not, within the time above stated, file such notice with the city clerk, the city treasurer shall sell at auction to the highest bidder for cash, such building, or so much thereof as shall stand upon the land so taken, with the right to remove the same at any time within ten days after the city shall have taken possession of such land, and the amount received in payment therefor shall be applied toward the compensation to be paid for the property to be taken for such improvement. If such owner shall elect to remove such building, the value of the same for removal, as appraised by said commissioner, shall be deducted from the amount of compensation awarded to him, and the remainder thereof shall be in full for all compensation to be made to him by reason of such improvement.

§ 17. At any time before the cost of any local improvement shall be computed and ascertained by the comptroller and certified to the common council as provided in the next succeeding section, the common council may from time to time by ordinance, which before it shall take effect shall be submitted to and approved by the board of estimate and apportionment, authorize the comptroller to borrow money to the extent required to pay the cost of any such improvement or to repay any money borrowed under this section with interest thereon. The ordinance authorizing any such loan or loans may provide for the issue of notes or certificates of indebtedness of the city, or both, payable either on demand or at a fixed time, not more than six months from the date thereof and bearing interest not exceeding six per centum per annum. Said notes or certificates may be sold at public or private sale, or pledged as security for temporary loans,

as the common council may by such ordinance direct. Any temporary indebtedness incurred under the authority of this section, with the interest thereon, may be paid out of moneys to be raised by the issue and sale of "local improvement bonds" or "assessment bonds," or both, to be issued and sold as hereinafter provided, or may be included in the annual estimate and raised by tax.

§ 18. Upon the completion of any local improvement the comptroller shall compute and ascertain the total cost thereof. In the total cost shall be included awards for the taking of real estate, rights or easements, awards for damages resulting from such improvement, all sums paid by the city for surveyors, engineers, inspectors, commissioners' and witnesses' fees, the cost and disbursements of the corporation counsel for and on account of such improvement, the interest paid or accrued at the time of the computation on notes or certificates of indebtedness issued by the city to pay the expense of such improvement, and all expenses incident to the improvement and the assessment therefor. After the comptroller shall compute and ascertain the total cost of any local improvement as aforesaid, he shall certify the same to the common council; and if the whole or any part of the expense of such local improvement is to be assessed upon the property benefited, the comptroller shall also certify to the assessors such total cost and also the proportion of such cost directed by ordinance to be assessed upon the property benefited.

§ 19. Whenever the comptroller shall certify to the common council the total cost of any local improvement, the common council may by ordinance, which before it shall take effect shall be submitted to and approved by the board of estimate and apportionment, direct that the amount and proportion of the expense of such improvement which shall be borne by the city at large, shall be raised by incurring a funded debt and by the issue and sale, in the manner provided by law, of bonds of the city to be known as "local improvement bonds."

§ 20. Whenever the comptroller shall certify to the common council the total cost of any local improvement, the common council may by ordinance, which before it shall take effect shall be submitted to and approved by the board of estimate and apportionment, direct that the amount and proportion of the expense of such improvement which shall be directed to be assessed upon the property benefited, or any part of such expense, shall be raised by

the city, by the issue and sale of its bonds, to be known as "assessment bonds." Such bonds may bear interest not exceeding six per cent per annum, and shall be made payable in equal annual installments the last of which shall become due not more than ten years after its issue. All moneys received from assessments hereafter levied shall be held and used exclusively for the payment of assessment bonds of the city of Yonkers issued under the authority of this act.

§ 21. Whenever proceedings have been begun by the city, under the condemnation law, to acquire any real estate or any interest therein or whenever proceedings have been begun for acquiring property for street openings, the court in which such proceedings are pending may at any stage of such proceedings authorize the city, if in possession of the real estate, rights or easements sought to be taken, to continue in possession thereof, and may stay all actions or proceedings against it, on account thereof, or, if the city is not in possession, may authorize the city to take immediate possession of the real estate, rights or easements sought to be taken, upon giving such security or depositing such sum of money as the court may direct, to be held as security for the payment of the compensation which may finally be awarded. In case possession is retained or taken under this section, the condemnation proceeding cannot thereafter be abandoned.

§ 22. In all cases where, pursuant to the provisions of chapter six hundred and thirty-five of the laws of eighteen hundred and ninety-five and of the acts amendatory thereof, any local improvement has heretofore been authorized to be made and an assessment district has heretofore been fixed beyond which the assessment for the cost of such improvement shall not extend, and such improvement has not been completed before this act takes effect, the cost of such improvement shall be ascertained in the manner provided in section eighteen of this article, and the whole of such cost shall be assessed, in the manner provided in sections fourteen, fifteen, sixteen, seventeen and eighteen of article five of this act, on the several lots, pieces and parcels of land, situated within the assessment district heretofore fixed as aforesaid; and money may be borrowed, and notes, certificates of indebtedness, and assessment bonds may be issued in the manner provided in sections seventeen and twenty of this article, to pay the cost of any such local improvement.

ARTICLE VII.

PUBLIC STREETS.

Section 1. The following shall be deemed public streets of the city:

1. All streets, avenues, roads, alleys, lanes, concourses and public squares in public use within the city, heretofore or hereafter laid out as streets or public highways under any law of this state, or under any proceedings authorized by the statutes of this state.

2. All streets, avenues, roads, alleys, lanes, concourses and public squares not laid out or opened under any statute of this state or by proceedings authorized by such statutes, but which have been worked or improved by the city and used as public streets or highways for ten years or more.

3. All streets heretofore dedicated to the public use in pursuance of law, or hereafter dedicated and accepted by the common council as provided in this title.

§ 2. Whenever any street, park or square shall have been dedicated to the public use, the common council may, with the written consent of at least a majority of the board of estimate and apportionment, accept such dedication, by ordinance. Thereupon, the street so dedicated and accepted shall be a public street of the city, and the park or square so dedicated and accepted shall be one of the public parks or squares of said city.

§ 3. Before any street, park or square shall be so accepted, the common council shall cause a survey, map and description thereof either to be made by the city engineer or approved by him in writing, and by him reported to the common council, stating the exact location, the course, distance, width and boundaries of the street, park or square so accepted. Such description shall be entered at length in the minutes of the common council, and such map shall be filed in the office of the city clerk; and copies thereof duly certified by the city clerk shall be presumptive evidence in any proceeding, of the location of said street, park or square.

§ 4. The common council may, by ordinance, cause all streets, public parks or squares in said city that have been used for ten years, and are not sufficiently described, or have not been duly recorded in the existing public records, to be ascertained, described and entered of record in its minutes; and the record thereof, and of such as shall hereafter be laid out, or of such

as have been dedicated and accepted by the common council, or a copy thereof, certified by the city clerk, shall be evidence of the existence and location of such streets, parks and squares as therein described.

ARTICLE VIII.

BUREAU OF WATER WORKS.

Section 1. The bureau of water works shall constitute a bureau in the department of public works, and the chief officer thereof, subject to the commissioner of public works shall be the superintendent of water works.

§ 2. The commissioner of public works may enter upon any public street, highway or place in the city, for the purpose of laying, altering, repairing and maintaining conduits, mains and pipes for the conveyance of water and for the purpose of constructing, repairing, altering, maintaining or extending any portion of the water works of said city, and may lay and construct such conduits, mains and pipes over, under or across any water course, canal or railroad, and may enter upon any public street, highway or place without the city limits in the county of Westchester, subject to regulation by the officials having control thereof, for the purpose of laying, altering, repairing and maintaining conduits, mains and pipes for the conveyance of water; and may carry and conduct the same over, under or across any water course, canal or railroad without the limits of the city, provided that such public street, highway or place, or water course, canal or railroad crossing so entered upon is restored in as good condition as before such entry; and the city may maintain its conduits, mains and pipes in and under the public streets, highways and places within and without the city in which they are now laid, and over, under or across the water courses, canals and railroads over, under or across which they are now maintained.

§ 3. The commissioner of public works may adopt plans for the extension or improvement of the water works system, or for the acquisition of an additional supply of water for public and private use. A plan so adopted by him shall be submitted to the common council and the board of estimate and apportionment for their approval. If such plan is approved by the common council and by the board of estimate and apportionment, the commissioner of public works shall cause such work to be done,

and necessary lands and water rights to be acquired, in accordance therewith. The contracts for such work shall be let in accordance with such plan, and in the same manner as other contracts for public improvements. Upon the adoption and approval of a plan for the extension and improvement of the water works system, or for the increase in the supply of water, if there is insufficient money in the treasury applicable to such purposes, the common council and the board of estimate and apportionment may cause bonds to be issued and sold, as provided in sections sixty and sixty-one of chapter four hundred and seventy-three of the laws of nineteen hundred and six, or in such manner as may hereafter be provided by law, the proceeds of which shall be used for paying the cost and expense of such work.

§ 4. The commissioner of public works or city engineer may enter into or upon any land or water in the county of Westchester for the purpose of making surveys. The commissioner, with the assent of the board of estimate and apportionment, may agree with the owner of any property in the county of Westchester which in his judgment may be required for such extension, improvement, protection or increase in supply, or which may be injuriously affected by such work connected with such improvement, as to the amount of compensation to be paid to such owner. If the commissioner of public works shall agree with any owner for the purchase of any lands or easement in the same, or for the taking of any water or water rights, all such agreements and conveyances shall be made and taken in the name of the city of Yonkers. If the commissioner of public works is unable to agree with the owner of any such lands or easement, water or water rights, as to the amount of compensation to be paid therefor, the city of Yonkers may acquire such lands or easement, water or water rights, by condemnation as provided by law.

§ 5. Whenever there is money in the treasury applicable to such purpose, or the issue of bonds for such purpose has been authorized, the common council may, by ordinance, direct the commissioner of public works to cause the line of water mains or pipes for the city water works to be extended in any street in the city.

§ 6. The commissioner of public works shall procure and set hydrants for the supply of water for the extinguishment of fires,

of such kind, in such manner and at such places in the public streets of the city as the common council shall direct.

§ 7. The connecting or supply pipes leading from the mains or distributing pipes to dwellings or other private property shall be inserted and kept in repair at the expense of the owners or occupants of the premises and shall not be inserted or connected with the main pipe until a permit therefor shall be obtained from the commissioner of public works. All such connecting or supply pipes and fixtures shall be constructed and placed under and according to the direction of the commissioner of public works.

§ 8. The commissioner of public works, with the assent of the board of estimate and apportionment, shall establish a scale of rents to be charged and paid from time to time, either in advance or at such time or times as he shall prescribe for the use and supply of water to be called water rents on all classes of buildings in said city in which water shall be used, and in the establishment of such scale of rents said commissioner shall have reference to the ordinary or extraordinary uses of said water for dwellings, stores, shops, hotels, factories, livery stables, wharves, barns and all other buildings, establishments and trades, yards, number of families or occupants, or consumption of water for useful or ornamental purposes, as near as may be practicable, and from time to time said commissioner may, with the approval of the board of estimate and apportionment, modify, amend, increase or diminish such rents, but the rents shall be so fixed and kept that no consumer shall obtain water for less than cost, and that the aggregate annual amount collected therefrom shall equal each year at least two per centum of the then existing water debt of the city, over and above all expense of repairs, maintenance, operation, management, salaries, and the interest on the water debt. But before any such annual rents shall be fixed, established or increased by the said commissioner, he shall give five days' public notice in the official newspaper or newspapers of the city that he has prepared a proposed scale of water rents and that the same is subject to the inspection of any resident of said city, for the period of at least five days, at a place to be named by said commissioner and that he will be present at the time and place, which shall be named in such notice, for the consideration of such proposed scale and for the hearing and consideration of any complaint that may be then or there made thereto by any resident of said city. At the time

and place so appointed he shall hear the complaints and allegations of all parties interested, and may take proof in relation thereto, and may confirm and adopt the said proposed scale without alteration, or with such alteration as he may deem proper, except that he shall not increase any rent or rents. The commissioner of public works may, subject to the approval in each instance of the board of estimate and apportionment, remit or reduce any water rate or rent, determined by meter charges, with the interest and penalties thereon deemed by him to be erroneous or excessive.

§ 9. All water rents shall be paid to the treasurer of the city, in accordance with statements or accounts of the amounts due which shall be prepared and sent within ten days after the same shall be due by the commissioner of public works to the owners of the premises liable therefor. The city treasurer shall on the first day of each month report to said commissioner all payments of water rents made or collected during the preceding month and keep a separate account of the amounts so received, and of all payments made in such month for maintaining and operating the city water works. It shall be the duty of the commissioner of public works, immediately preceding the time for making the annual assessment rolls, to make out a list or roll of each ward of the city in which he shall set out the amount of water rents accrued or chargeable upon each lot, part of lot or building, and which shall not have been paid or included in a preceding like list or roll, and file the same with the assessors, who shall in the preparation of the next assessment rolls for general city taxes, in a separate column thereof, assess such amount upon such property; and the same shall be levied, corrected, enforced. and collected in the same manner, by the same proceedings, at the same time, under the same penalties, and having the same lien upon the property assessed as the general city tax and as a part thereof.

§ 10. The water bond sinking fund is continued with the moneys and investments now contained therein. The water rents collected as hereinbefore provided and any moneys which may be raised by a direct tax to make up a deficit therein, as hereinafter provided, shall be paid into the city treasury, and the city treasurer shall keep a separate account of the rents so received, and all payments made in each year for operating and maintaining the water works and for interest on all water bonds of the city heretofore issued. On or before the fifth day of January in each year the

city treasurer shall make a detailed statement of the amounts so received, and the payments so made, to the board of estimate and apportionment and to the comptroller. Any surplus income, after paying the necessary expenses of operating and maintaining the water works and paying interest on all outstanding water bonds of the city heretofore issued, shall constitute a sinking fund for the retirement of said water bonds heretofore issued, and with all income received from investments of such sinking fund, shall be invested by the comptroller under the direction of the board of estimate and apportionment, either in bonds of the United States, or of the state of New York, or any bonds of the city of Yonkers. Any water bonds of the city heretofore issued, so purchased, shall be stamped as belonging to the sinking fund, but the comptroller shall collect the interest thereon and upon all other bonds held by said sinking fund and invest said interest as hereinbefore provided. Any bonds held in said sinking fund other than water bonds of the city heretofore issued may from time to time be sold by the comptroller with the consent of the board of estimate and apportionment and the proceeds thereof reinvested as aforesaid. If in any fiscal year the water rents collected shall not be sufficient to show a surplus (after deducting all payments made in such year for operating and maintaining water works and for paying interest on all water bonds of the city heretofore issued) which shall equal at least two per centum of the face amount of all outstanding water bonds of the city heretofore issued (including such water bonds heretofore issued as are held in the sinking fund) the deficit shall be inserted in the next annual estimate and collected by direct tax.

§ 11. Whenever in the judgment of the commissioner of public works the supply of water shall exceed the needs of the city, the city, by ordinance of the common council, approved by the board of estimate and apportionment, shall have power to contract with any corporation or corporations, municipal or otherwise, or person or persons without said city, to supply to such corporation or person such water for a term not exceeding five years, and to supply and deliver such water under such contract.

§ 12. The common council shall have power to prevent drainage into any lake, stream, pond or spring within or without the city of Yonkers in county of Westchester used for the purposes herein set forth, or the erection of slaughter houses, privies, stables, or other structures or works, causing or being liable to cause impurities to

the waters, at any place within five hundred feet of any such lake, stream, pond or spring. No person shall wilfully do, or cause to be done, any act whereby any work, materials or property whatever, erected or used, or hereafter to be erected or used for the purpose of procuring or keeping such supply of water, shall in any manner be injured, nor erect or place any nuisance on the banks of any lake, stream, pond or spring from which supply of water is obtained, nor throw anything into such lake, stream, pond or spring, or into the aqueduct, or into any reservoir or pipe. Any person who shall violate any ordinance enacted hereunder, or commit any act herein prohibited shall be guilty of a misdemeanor, and further shall forfeit the sum of one hundred dollars for each violation, to be recovered by action by the commissioner of public works.

ARTICLE IX.

DEPARTMENT OF PUBLIC INSTRUCTION.

Section 1. The title of the school houses, sites, lots, furniture, books, apparatus, appurtenances, and of all other school property, connected with or constituting part of the public school system of the city shall be vested in the city of Yonkers. The city may in its corporate capacity take and hold any personal or real property transferred to it by grant, gift, devise or bequest, in trust, for the benefit of the schools of the city, or any of them, whether said property be transferred in terms to said city, by its corporate name, or by any other designation, or to any person or body for the benefit of said schools or any of them.

§ 2. The head of the department of public instruction shall be the board of education, which shall be composed of fifteen trustees, residents of the city. The term of office of each trustee shall be five years, and shall commence on the first day of July following his appointment. The trustees now in office shall continue to serve for the balance of the terms for which they were respectively appointed, and between the first and fifteenth days of June in each year, the mayor shall appoint by a certificate in writing filed in the office of the city clerk, three trustees to succeed the trustees whose terms of office shall expire in such year. Trustees of the board of education shall be deemed city officers.

§ 3. The annual meeting of the board shall be held on the second Tuesday of July in each year at eight o'clock in the afternoon. At such meeting, the board shall appoint by ballot from

their number a president and vice-president to serve for one year, and a secretary and assistant secretary, who shall not be members of the board, to serve during its pleasure.

§ 4. The board of education shall appoint as herein provided, to serve during its pleasure:

(a) A superintendent of public schools.

(b) All school principals and teachers.

(c) All janitors and compulsory education officers, subject to the restrictions imposed by the general laws of the state.

(d) Such other officers and employees as it may deem necessary for the proper discharge of its administrative duties.

§ 5. The board shall establish, control, maintain and provide for the public schools, the public school system, and the general educational interests of the city, and manage and control the property, real and personal, which belongs to the city and is used for the purposes of education, subject only to the general statutes of the state relating to public schools and public school instruction and to the provisions of this act.

§ 6. The board shall have power:

(a) To establish, control and maintain kindergartens, common schools, high schools, manual training and industrial schools, including provision for special studies and social improvement, vacation schools, training schools for teachers, and truant schools; to discontinue or consolidate schools; and to supervise, maintain and equip playgrounds established by the common council.

(b) To change the grades of any or all schools, and to adopt and modify courses of study therefor.

(c) To license teachers for the schools of the city, and to fix a standard of qualifications as a necessary requirement for the service of all principals and teachers in the schools of the city, which requirement may be higher but not lower than the minimum qualifications required by the laws of the state and the provisions of this act.

(d) As hereinafter provided, to purchase, lease or improve sites for school houses; to build, purchase, lease, enlarge, improve, alter and repair school houses and appurtenances; to purchase, improve, exchange and repair schools, apparatus, books, furniture and appendages; and in general to provide for all the requirements of the schools under its control.

(e) To fill for the unexpired term any vacancies which may occur in the offices or positions by it appointed or filled.

(f) To allow the children of persons not residents of the city to attend the schools under the care and control of the board, upon the payment of such tuition and upon such terms as the board may by resolution prescribe.

(g) To adopt rules and regulations for the proper transaction of its business; for defining the duties of its officers and employees, and for the proper execution of all powers vested in and duties imposed upon it by law.

(h) To fix within the proper appropriation of moneys therefor, the salaries and compensation of all officers and employees appointed by it.

§ 7. Under the direction of the board, the secretary shall have charge of the rooms, books, papers and documents of the board, except such as pertain to the office and duties of the superintendent. He must perform such duties as may be required of him by the board, its committees or members. He shall have the right to administer oaths and take acknowledgments, but without fee. He shall be the clerk of the board, and must keep or cause to be kept a record of the proceedings thereof. He must also keep or cause to be kept a set of records, showing the receipts and expenditures of the board. Said expenditures must be subdivided so as to show the cost of maintaining each school separately and the supplies used therein. He must also keep or cause to be kept a series of receipts, to be signed by either the principals or janitors, certifying to all repairs and improvements made and all supplies received for the respective buildings and premises. All the books, accounts, vouchers and papers of the board must at all times be subject to the inspection of the common council and of any committee thereof. A copy of any record of the board certified by the president, secretary or assistant secretary may be used in evidence in the same manner as if the original was produced. The assistant secretary shall be vested with the powers and perform the duties of the secretary during the absence or incapacity of the secretary and shall perform such other duties as may from time to time be assigned to him by the board.

§ 8. No person shall be eligible to be appointed as superintendent, unless he is a graduate of a college or university recognized by the regents of the state of New York, and has had at least ten years' experience as a practical educator.

§ 9. Under the direction of the board, the superintendent shall have power, and it shall be his duty to enforce the laws of the

state applicable to the public schools of the city and all the rules and regulations of the board, except as herein provided. He must visit the schools of the city as often as he can consistently with his other duties, and inquire into the character of the instruction, management and discipline, and provide suitable registers, blanks, forms and regulations for making all reports and for conducting all necessary business connected with the school system, and he must cause the same, with such information and instruction as he deems conducive to the proper organization and government of the schools to be transmitted to the persons entrusted with the execution of the same. He must report to the board from time to time, as he may be required or deem necessary, a statement of the condition of the schools and all such matters relating to his office, and such plans and suggestions for the improvement of the schools and for the advancement of public instruction in the city, as he may deem expedient. He must recommend the number of teachers necessary for each of the several schools and must nominate for appointment all principals, teachers, special teachers and supervisors. He may, whenever occasion requires, and unless otherwise directed by the board, appoint supply teachers and assign them to duty, and he may temporarily transfer principals, teachers and pupils from one school to another. It shall be his duty to maintain proper discipline in the management and conduct of the schools and he may in his discretion suspend for a period not longer than till the next stated meeting of the board any pupil guilty of misconduct or insubordination, and shall report such suspension at the next stated meeting of the board. It shall be his duty to report to the board inefficiency of principals, teachers and employees. He must enforce the compulsory education law and direct compulsory education officers in the discharge of their duties. At the annual meeting of the board, he shall present an annual report, giving an account of the duties he has performed during the year, together with such recommendations for promoting the usefulness and success of the schools as he may deem proper. The report shall show the number and names of teachers employed in the several schools of the city, the salary paid to each, the length of time each has taught in the city, the number of pupils enrolled in each of the schools, and the average attendance — which report shall be printed by the board.

§ 10. It shall be the duty of the board to prepare and transmit to the common council within ten days after the close of the fiscal year, its annual report, which shall contain correct statements of the receipts and disbursements of money during such fiscal year, in which account must be stated under appropriate heads:

(a) The money raised by the common council under the provisions of this act.

(b) The school moneys received by the city treasurer from the county treasurer or the state.

(c) All other moneys received by the city treasurer, subject to the order of the board, specifying the same and the sources thereof.

(d) The manner in which sums of money have been expended, specifying the amount paid under each head of expenditure, and whether any part of any such fund remains unexpended.

(e) Whether any and what claims or bills against the department, or obligations incurred by said department, remain unpaid.

(f) A full account of the condition of the teachers' retirement fund, its amount, the manner of its investment, and all receipts and disbursements on account of said fund during the year. With such report shall be transmitted the annual report of the superintendent to the board of education.

§ 11. Whenever the board of education shall deem it advisable to purchase or improve sites for school houses, or to build, enlarge, improve or alter school houses and appurtenances, or make any other improvement or extension of the school system, it shall submit to the common council and to the board of estimate and apportionment a statement setting forth such purchase, improvement or extension of the school system deemed by it advisable. If such purchase, improvement or extension shall be approved by the common council and by the board of estimate and apportionment, the board of education shall thereafter proceed with such purchase, improvement or extension, and may acquire or improve such sites or let contracts for the construction or other improvement of school buildings or property, and if there is insufficient money in the treasury applicable to such purposes the common council and the board of estimate and apportionment must cause bonds to be issued and sold, as provided in sections sixty and sixty-one of chapter four hundred and seventy-three of the laws of

nineteen hundred and six, or in such manner as may hereafter be provided by law, the proceeds of which shall be used for paying the cost and expense of such purchase, improvement or extension.

§ 12. Whenever the board of education shall report to the common council that it is unable to purchase real estate, rights or easements deemed necessary by it for school purposes, the common council may pass an ordinance containing a description of the real estate, rights or easements to be acquired, and declaring its intention to acquire the same, and that it deems the same necessary for municipal purposes, and directing the corporation counsel to institute condemnation proceedings for the acquirement of the same.

§ 13. Whenever the board shall intend to cause any work to be performed or to purchase any supplies, it shall be the duty of the officers or employees of the board having jurisdiction thereof to procure estimates of such work or supplies from two or more competitors whenever practicable, and report such estimate to the board for its consideration and action. The board may, in its discretion, accept any bid which is most advantageous to the city and thereupon cause a contract therefor to be executed in the name of the city by the president of the board; or it may reject any or all bids, as the interests of the city require.

§ 14. In case of emergency requiring the closing of a school building unless immediate repairs thereto are made, the board may cause repairs thereto to be made without a contract therefor, or may let a contract therefor without advertising or receiving bids, upon filing with the comptroller a certificate approved by the mayor showing such emergency and the necessity of repairs.

§ 15. The board shall be the trustee of the school library or libraries in the city, and all the provisions of the law now or hereafter passed relative to public school libraries apply to the board. It shall be vested with the same discretion as to the disposition of all moneys appropriated by any law of the state for the purchase of school libraries which is therein conferred upon the inhabitants of a school district. It shall be the duty of the board to provide for the safekeeping of the school library or libraries.

§ 16. Upon recommendation of the board of education, the sale of school houses, lots or sites, or any other school property, may be authorized by ordinance of the common council as pro-

vided by law in relation to other sales of real property. The proceeds of such sale must be paid to the treasurer to the credit of the funds of the department of public instruction.

§ 17. The public schools shall be free to all children between the ages of five and twenty-one years residing in the city, and the evening schools shall be free to all persons over five years of age residing in the city. Children under five years of age may be admitted to the kindergarten classes of the public schools.

§ 18. The Yonkers public school teachers' retirement fund association is hereby established. The board of education shall constitute a board of trustees who shall have the general care and management of the public school teachers' retirement fund created by this act. The public school teachers' retirement fund shall consist of the following moneys with interest or income therefrom:

(a) All donations, legacies and gifts which shall be made to the said fund.

(b) One per centum per annum of the respective salaries paid to the superintendent of schools, supervisors, principals, teachers, registrars and janitors regularly employed in the public schools of Yonkers, and who may elect to become members of this association within one month after the passage of this act, or if not now in the employ of the city, within one month of the time of his or her appointment hereafter.

(c) Five per centum annually of the excise moneys to which the city of Yonkers may be entitled by virtue of the provisions of the liquor tax law of the state of New York, which sum shall be paid into said pension fund and duly credited thereto by the proper officials of the city.

(d) All forfeitures and deductions of or from the salary of any superintendent, supervisor, principal, teacher, registrar or janitor employed in the public schools of the city. Such forfeitures and deductions shall be paid into said retirement fund and duly credited thereto by the proper officials of the city.

The comptroller shall be the custodian of said fund and the city treasurer shall be the treasurer thereof, and all orders made payable from said fund shall be made upon the vote of said board of trustees, said orders to be signed by its president and countersigned by the comptroller and city treasurer. The comptroller shall invest for the benefit of the retirement fund all moneys not necessary for the payment of annuities. Such investment shall

be made only in securities in which the savings banks of the state of New York are authorized by law to invest. He shall report to the board annually in the month of January the condition and disposition of the fund, and the items or receipts and disbursements during the year ending on the thirty-first day of the December preceding. The board of education in making the payrolls for October and March in each year for the superintendent, supervisors, teachers, registrars, and janitors, hereinbefore mentioned, shall deduct from the salary payable for each of such months to each of said persons who shall be members of said public school teachers' retirement fund association, the sum of one-half of one per centum of his or her annual salary. The board of education shall thereupon issue a certificate to the treasurer stating the total sum so deducted and also the total amount of deductions from the salaries of any persons who are members of said association, for absence from duty during the preceding six months. Such amount shall be paid into the retirement fund and duly credited thereto by the comptroller.

§ 19. The board of education shall have power to retire from service any superintendent, principal, teacher, registrar or janitor who shall have served in such capacity or capacities for an aggregate period of twenty-five years for a female and thirty years for a male, and no person so retired shall become an annuitant under this act unless fifteen years of such service shall have been rendered in the public schools of Yonkers, and unless he or she shall have come under the provisions of this act as hereinbefore provided. Annuities paid in pursuance of this act shall be one-half of the salary of the annuitant at the time of retirement from service, except that no annuity shall exceed eight hundred dollars annually, but if the moneys in the fund and the receipts of said fund shall be found insufficient to fully carry out the provisions hereinbefore set forth, the trustees shall then determine the pro rata amount which in their judgment each annuitant shall receive in any year, and such amount shall be deemed full payment of the annuity for that year. If at any time a superintendent, supervisor, principal, teacher, registrar, or janitor, belonging to this association shall be refused re-employment by the board of education, or shall be discharged before he or she would become an annuitant under the provisions of this act, then such person shall be entitled to receive from the treasurer, without interest, a sum equal to the total deductions from his or her salary in pursuance

of this act other than the forfeitures and deductions specified in subdivision (d) of section eighteen of this article.

§ 20. For the purpose of providing money for the support and maintainance* of the public schools in the city from the first day of October, one thousand nine hundred and eight, to the first day of January, one thousand nine hundred and nine, a funded debt of the city may be created and bonds of the city not exceeding in the aggregate one hundred and twenty-five thousand dollars may be issued and sold as provided in sections sixty and sixty-one of chapter four hundred and seventy-three of the laws of one thousand nine hundred and six, or in such manner as may hereafter be provided by law.

ARTICLE X.

DEPARTMENT OF PUBLIC SAFETY.

Section 1. No fee or compensation other than as authorized by this act shall be charged or received by any policeman or special officer for the arrest, confinement or discharge of any person, or for mileage, or for serving any process or warrant, or for discharging any other duty required by this act. But any reasonable or necessary expense incurred and actually paid by any policeman, when traveling in the discharge of his duties as policeman shall be paid by the treasurer of the city of Yonkers, on the warrant of the commissioner of public safety; and for any service performed for or on behalf of the county of Westchester, or of any town therein, and for any expense incurred therein by him in such service, the commissioner of public safety is authorized to charge such service and expense to said county or town, as the case may be, and the same shall be audited and allowed by the board of supervisors of said county against said county or town, to and for the benefit of the city of Yonkers, and the same shall be levied and collected by tax as other county or town charges, and shall be paid to the treasurer of the city of Yonkers and by him placed to the credit of the police department.

§ 2. No member of the police or fire department shall receive any present or reward for services rendered, or to be rendered unless with the approval of the commissioner of public safety, upon application in writing, filed with the clerk; and any such member who shall receive any fee or reward in violation of this section shall be subject to removal therefor.

* So in original.

§ 3. The common council may provide for the organization and maintenance, and for the disbandment of volunteer fire companies. The volunteer fire companies now existing shall continue until disbanded by the common council, and each member thereof during his term of service shall be exempt from jury or military duty, except in case of war, invasion or insurrection; and a service for a period of five years, heretofore or hereafter completed, as a volunteer fireman shall forever exempt such member from jury and military duty except as aforesaid, and shall entitle him to all other privileges and rights provided by law. In case the common council shall disband any volunteer fire company, every member thereof who shall have been an active member for at least three years, shall be entitled to a full and honorable discharge, and shall be forever exempt from jury and military duty except as aforesaid, and shall be entitled to all other privileges and rights provided by law. Certificates of service shall in all cases be signed and issued by the commissioner of public safety, whose signature shall be attested by the city clerk under the corporate seal of the city.

ARTICLE XI.

POLICE PENSION FUND.

Section 1. The mayor, the comptroller, and the commissioner of public safety, and their successors in office, shall constitute a board of trustees of the police pension fund; and they shall have the care, control, management and distribution of said fund as provided by law. The comptroller shall be the custodian of the said fund, and the city treasurer shall be the treasurer thereof. All orders made payable from the said fund shall be made upon the vote of said trustees, and such orders must be signed by the commissioner of public safety, and countersigned by the comptroller and by the city treasurer. The trustees of the said fund shall invest for the benefit of the fund, all moneys not necessary for the payment of pensions. Such investment shall be made only in securities in which the savings banks of the state of New York are authorized by law to invest. The trustees of the said fund shall report in detail to the common council, annually, in the month of January, the condition and the disposition of the fund, and the items of receipts and disbursements for account of the same during the year ending on the thirty-first day of the December preceding.

§ 2. The police pension fund as it now exists is continued; and in addition to the moneys and investments therein contained it shall consist of:

1. All fines imposed by the commissioner of public safety on the members of the police department in the city of Yonkers.

2. All rewards, money, gifts, testimonials and emoluments that may be paid or given to any member of the police department, for account of police service, except such payments or gifts as have been or shall be allowed by the commissioner of public safety to be retained by the member receiving the same.

3. All moneys, pay, compensation or salary, or any part thereof deducted or withheld from any member or members of the police department, for or on account of absence or suspension from duty, except in cases of sickness.

4. All lost or stolen money remaining in the hands of the police force for the period of one year, and for which there shall be no lawful claimant; and the moneys arising from the sale of unclaimed property, which property the commissioner of public safety is hereby authorized to sell, after it shall have been without a lawful claimant for the period of one year.

5. All fees received and paid for the inspection and testing by the police of combustible and dangerous materials, as shall be provided by the laws and ordinances of the city.

6. All moneys which shall be deducted from the monthly pay, salary or compensation of each member of said department, and which shall be the sum of two per centum of the monthly pay, salary or compensation of each of the said members; which said sum shall be deducted monthly by the comptroller of the city of Yonkers from the pay, salary or compensation of each and every member of said police department. And the comptroller is hereby authorized, empowered and directed to deduct the said two per centum of the monthly pay, salary or compensation as aforesaid, and to cause the same to be paid forthwith to the trustees of the said police pension fund.

7. Ten per centum annually of the excise moneys to which the city of Yonkers may be entitled, by virtue of the provisions of the liquor tax law of the state of New York, which percentage of such moneys must be annually deducted therefrom and paid forthwith to the trustees of the police pension fund.

§ 3. The commissioner of public safety shall have power and authority, in his discretion, to retire from all service in the police

department, and relieve and dismiss from the said department, members or officers thereof in the following cases, to wit:

(a) Any member or officer of the department who, upon an examination by the medical officers ordered by the said commissioner, is found to be disqualified, physically or mentally, for the performance of his duties.

(b) Any member or officer of the department who shall have reached the age of sixty years.

(c) Any member or officer of the department, irrespective of age, who shall have served continuously as a member or officer of the department for a period of twenty-five years, provided that such member or officer applies for retirement.

All members or officers of the department so retired shall be placed on the roll of the police pension fund. Nothing in this section contained shall, however, be construed as a limitation on the powers otherwise conferred by law with respect to the removal or dismissal of members or officers of the police department.

§ 4. The said board of trustees shall grant pensions out of said pension fund, in the following cases:

1. To any member or officer of the police department who shall have been retired for disability and who has been relieved and dismissed from the police department and who has been placed on the pension roll, as provided in section three of this article, an annual pension payable monthly during his lifetime, of a sum of money amounting to one-half of the full annual salary or compensation received by such member or officer at the date of his retirement from the service; and said pension or allowance so allowed is to be in lieu of any salary which such member or officer was entitled to receive at the date of his being so relieved or retired from duty, and the city shall not be held liable for any payment of any claim or demand for services thereafter rendered by the member or officer of the force so retired.

2. To the widow of any member of the police force who shall have been killed while in the actual performance of police duty, or who shall have died from the effects of any injuries received in the actual discharge of such duty, or who has died or shall hereafter die after ten years of service on said police force, or who shall have been retired upon a pension, if there be no child or children under sixteen years of age of any such member, the sum of not exceeding three hundred dollars per annum, but if there be any such child or children of such member under the

age aforesaid, then the said sum may be divided between such widow, child or children under the age aforesaid, in such proportions and in such manner as the said trustees may direct.

3. To any child or children under sixteen years of age of such member killed or dying as aforesaid, or pensioner as aforesaid, but leaving no widow, or if leaving a widow, then after her death, to such child or children being under sixteen years of age, a sum not exceeding three hundred dollars per annum.

4. To the mother depending for support on such member killed or dying as aforesaid, or pensioner as aforesaid, but leaving no widow or children, a sum to be paid in such manner as the trustees may direct, not to exceed three hundred dollars per annum.

5. Pensions to widows shall terminate when the widow shall remarry, and pensions to children shall terminate whenever the children shall respectively arrive at the age of sixteen years. No pension shall be paid except from the police pension fund, nor shall a pension be paid to any other than members of the said department whose salaries shall or shall have contributed to the maintenance of the police pension fund, or to their relatives as specified in the preceding section; nor shall a pension be awarded or granted on account of physical or mental disability or disease where the disability or disease is caused by the culpable negligence or misconduct of the disabled or diseased party.

§ 4. Every person who knowingly or wilfully in anywise procures the making or presentation of any false or fraudulent affidavit or affirmation concerning any claim for pension or payment thereof, shall in every such case forfeit a sum not exceeding two hundred and fifty dollars, to be sued and recovered by and in the name of the said trustees of said police pension fund, and when recovered paid over to and thereupon become a part of said police pension fund.

§ 5. For the purpose of this act, the board of trustees of said police pension fund is hereby authorized to administer oaths and take acknowledgments; and any person who shall wilfully swear falsely in any oath or affirmation in obtaining or procuring any pension under the provisions of this act, shall be guilty of perjury.

§ 6. The moneys, securities and effects of said police pension fund and all pensions granted and payable from said fund shall be and are hereby exempt from execution and from all process

and proceedings to enjoin and recover the same by or on behalf of any creditor or person having or asserting any claim against or debt or liability of any pensioner of said fund.

§ 7. The members of said police department whose salaries contribute to said pension fund shall annually select two of their number and the pensioners shall annually select one of their number; and the persons so selected shall constitute an auditing committee and shall audit the accounts and proceedings of the said trustees and make and file with the clerk of the city of Yonkers a written report.

ARTICLE XII.

FIREMEN'S PENSION FUND.

Section 1. The firemen's pension fund as it now exists is continued, and in addition to the moneys and investments therein contained it shall consist of:

1. All fines imposed on the members of the paid fire department in the city of Yonkers by the commissioner of public safety.

2. All rewards, money, gifts, testimonials and emoluments that may be paid or given for or on account of extraordinary services of the said paid fire department or any member thereof, except such as have been or shall be allowed by the commissioner of public safety to be retained by the said member or members.

3. All moneys, pay, compensation or salary or any part thereof, deducted or withheld from any member or members of said paid fire department for or on account of absence or suspension from duty, except in cases of sickness.

4. All moneys which shall be deducted from the monthly pay of each fireman and officer of said department and from the pay of such other employee of said department, as may be entitled to participate in said fund, and which shall be the sum of two per centum of the monthly pay, salary or compensation each month from each of the said persons, which said sum shall be deducted bi-monthly by the comptroller of the city of Yonkers from the pay, salary or compensation of each and every member of said fire department. And said comptroller is hereby authorized, empowered and directed to deduct the said two per centum of the semi-monthly pay, salary or compensation as aforesaid and to pay the same forthwith to the trustees of the said firemen's pension fund.

5. The sum of five thousand dollars to be levied and raised by the common council each year in the manner prescribed by law.

§ 2. The mayor, comptroller and commissioner of public safety, and their successors in office, shall constitute a board of trustees who shall have the control, management and distribution of said fund. The comptroller shall be the custodian of the said fund, and the city treasurer shall be the treasurer thereof. All orders made payable from this fund shall be made upon the vote of the said trustees; and such orders must be signed by the commissioner of public safety, and countersigned by the comptroller and city treasurer. The trustees of the said fund shall invest, for the benefit of the fund, all moneys not necessary for the payment of pensions. Such investment shall be made only in securities in which the savings banks of the state of New York are authorized by law to invest. The trustees of the said fund shall report in detail to the common council, annually, in the month of January, the condition and disposition of the fund, and the items of receipts and disbursements for account of the same, during the year ending on the thirty-first day of the December preceding.

§ 3. Said commissioner of public safety shall have power and authority to retire from all service in the said fire department, or to relieve from service at fires, any officer or member of the uniformed force of said department, who may, upon examination by the medical officers, ordered by the said commissioner of public safety, be found to be disqualified, physically or mentally, for the performance of his duties; and the said officer or member so retired from service shall receive from said pension fund an annual allowance as pension in case of total disqualification for service, or as compensation for limited service in case of partial disability; in every case, the said commissioner of public safety is to determine the circumstances thereof, and said pension or allowance so allowed is to be in lieu of any salary received by such officer or member at the date of his being so relieved or retired from fire duty in said department, and the said department shall not be held liable for the payment of any claim or demand for services thereafter rendered and the amount of such pension or allowance shall be determined upon the following conditions: In case of total permanent disability, at any time, caused in or induced by the actual performance of the duties of his position, the amount of annual pension to be allowed shall be one-half of the annual compensation allowed such officer or member as salary at the date of his retirement from the service, or such less sum in

proportion to the number of officers and members so retired as the condition of the fund will warrant. But should permanent disability, caused by injuries received in the active discharge of his duties, disqualify him only from performing active duty in the uniformed force, he shall be employed at the salary received when such disability occurred in some position in the department not requiring active service as a fireman. In case of total permanent disability not caused in or induced by the actual performance of the duties of his position, the amount of annual pension to be allowed shall be one-half of the annual compensation allowed such officer or member as salary at the date of his retirement from the service, or in proportion to the number of officers and members so retired, as the condition of the fund will warrant. In case of partial permanent disability, caused in or induced by the actual performance of the duties of his position, or which may occur in the said fire department, the office* or member so disabled shall be relieved from active service at fires, but shall remain a member of the uniformed service, subject to the rules governing said force, and to the performance of such light duties as the medical officer of the said department may certify him to be qualified to perform, and the annual allowance to be paid to such officer or member shall not exceed one-half of the annual compensation allowed as salary at the date of his being so relieved or such less sum as the board of trustees may, in its discretion, determine or as the condition of the fund will warrant. Any officer or member of the uniformed force of the said fire department of the city of Yonkers, who has or shall have performed duty therein for a period of twenty years or upwards and shall have arrived at the age of sixty years, shall upon his own application in writing, or upon a certificate of the medical officers showing that such member is permanently disabled, physically or mentally so as to be unfit for duty, be retired and dismissed from said force and service, and placed on the roll of the relief or pension fund, and awarded and granted, to be paid from the said relief or pension fund, an annual pension during his lifetime of a sum of not less than one-half the full salary or compensation of such member so retired. The pensions granted under this section shall be for the natural life of the pensioner, and shall not be revoked, repealed or diminished.

§ 4. The said board of trustees shall grant pensions out of the said pension fund:

* So in original.

1. To the widow of any member of said paid fire department, who shall have been killed while in the actual performance of duty, or who shall have died of the effects of any injuries received or sickness contracted while in the actual performance of such duty or who shall die after twenty years of service in said paid fire department or who shall have been retired upon a pension, if there be no child or children under sixteen years of age of such member, a sum not less than three hundred dollars per annum, but if there be any such child or children of such member under the age aforesaid, then the said sum may be divided between such widow, child or children in such proportion and in such manner as said trustees may direct.

2. To any child or children under sixteen years of age of such member killed or dying as aforesaid or the pensioner dying as aforesaid but leaving no widow or if a widow then after her death to such child or children being yet under sixteen years of age, a sum not less than three hundred dollars per annum.

3. To any dependent parent or parents of such members killed or dying as aforesaid or the pensioner dying as aforesaid, but leaving no widow or child under the age of sixteen years, a sum not less than three hundred dollars per annum.

§ 5. Pensions to widows or children or a dependent parent or parents as the case may be, in the discretion of said trustees may be from time to time diminished, modified or revoked, and the pensions to widows or children shall cease in case the pensioners shall be guilty of conduct which in the opinion of said trustees renders further payments inadvisable.

§ 6. Pensions to widows shall terminate when the widow shall remarry or upon death of the widow and pensions to children shall terminate when each shall respectively arrive at the age of sixteen years, or upon the death of the child; pensions to dependent parents shall terminate at death.

§ 7. No pension shall be paid except from the said firemen's pension fund nor shall a pension be paid to any others than paid members of the said fire department whose salaries shall contribute to the maintenance of the firemen's pension fund as herein provided, or to their relatives as herein provided, nor shall a pension be awarded or granted on account of physical or mental disability or disease where the disability or disease is caused by the culpable negligence or misconduct of the disabled or diseased party.

§ 8. Every person who knowingly or wilfully in anywise procures the making or presentation of any false or fraudulent affidavit or affirmation concerning any claim for pension or payment thereof shall in every such case forfeit a sum not exceeding two hundred and fifty dollars, to be sued and recovered by and in the name of the said trustees of said firemen's pension fund and when recovered paid over to and thereupon become a part of said firemen's pension fund.

§ 9. For the purpose hereof, the board of trustees of said firemen's pension fund is hereby authorized to administer oaths and take acknowledgments and any person who shall wilfully swear falsely in any oath or affirmation in obtaining or procuring any pension or payment thereof under the provisions of this act shall be guilty of perjury.

§ 10. The moneys, securities and effects of said firemen's pension fund and all pensions granted and payable from said fund shall be and are exempt from execution and from all process and proceedings to enjoin and recover the same by or on behalf of any creditor or person having or asserting any claim against or debt or liability of any pensioner of said fund.

§ 11. The members of said fire department whose salaries contribute to said pension fund shall annually select two of their number and the pensioners, when there shall be any, shall annually select one of their number and the persons so selected shall constitute an auditing committee and shall audit the accounts and proceedings of the said trustees and make and file with the clerk of the city of Yonkers a written report.

§ 12. For the purposes hereof, the lineman or linemen of the paid fire department of the city of Yonkers shall be considered a member or members of the uniformed paid fire department of the city of Yonkers.

ARTICLE XIII.

DEPARTMENT OF THE JUDICIARY.

Section 1. The court of criminal jurisdiction now existing in the city of Yonkers, known as the court of special sessions, is hereby continued, with the powers and jurisdiction of such courts, and with the further jurisdiction and powers hereinafter provided. The city judge of Yonkers shall be the judge of the city court of Yonkers and also judge of the court of special sessions, and as judge of said court of special sessions shall have jurisdiction,

exclusive of any justice of the peace, within the corporate limits of the city, to issue all criminal process, and all process other than in civil actions and proceedings, including process in bastardy cases, which a single justice or two justices of the peace in towns are empowered to issue; and in such cases to hear, try and determine all matters, make such orders and do such acts alone as by law may be done by two justices of the peace sitting jointly.

§ 2. Subject to the power of removal provided by sections fifty-seven and fifty-eight of the code of criminal procedure, the city judge shall have in the first instance, exclusive jurisdiction to try and determine all offenses triable in courts of special sessions and shall have the powers and jurisdiction conferred upon such courts by section fifty-six of the code of criminal procedure, and the city judge shall have power to impose any sentence, punishment, fine, imprisonment, or both, as is provided in such cases by the provisions of the penal code or by special statutes of the state. The city judge shall also have power to hear, try and determine the following offenses committed within his jurisdiction, namely, cases of malicious mischief or injury; all offenses against public decency; selling unwholesome provisions; breaches of the peace; all violations of laws, ordinances, rules and regulations of the city, and all other offenses of the grade of misdemeanor under the laws of the state, and in his discretion to adjourn such trials for not more than eight days, or for a longer period upon consent of the parties. Said court shall have power upon conviction for a misdemeanor to impose a sentence of imprisonment not exceeding one year or a fine not exceeding five hundred dollars, or both such fine and imprisonment, with further imprisonment if such fine is not paid, not exceeding one day for each dollar thereof unpaid, except where a different punishment is by law prescribed for such offense. He shall have power to let to bail persons charged before him with a misdemeanor, or with any felony when the imprisonment in the state prison on conviction cannot exceed twenty years. He shall possess such other powers and perform such other duties as now are or hereafter may be conferred or imposed by law. In criminal proceedings any judgment, order or conviction made by the court of special sessions may be reviewed by appeal in like cases, in like manner and with like effect as appeals from courts of special sessions, as provided in title III, part V, of the code of criminal procedure of the state of New York. The city judge elected may appoint such number of clerks, stenog-

raphers, interpreters, assistants, and other attendants as may be prescribed by the board of estimate and apportionment. Said appointments shall be in writing and filed with the city clerk. All appointees of the city judge, including those in office when this act takes effect, shall hold their respective positions during the pleasure of the city judge elected. The stenographer of the city court of Yonkers shall be the secretary of the city judge. The salary or compensation of every appointee of the city judge, or employees in the city court or court of special sessions, including those in office when this act takes effect, shall be fixed and determined by the board of estimate and apportionment.

§ 3. It shall be the duty of the city judge to be present at the court room at such times and for such hours as the public interests may require, unless necessarily detained therefrom.

§ 4. The city judge of Yonkers shall receive an annual salary to be fixed by the board of estimate and apportionment. If the city judge shall fail to perform the duties of his office from any cause, except from actual disability from sickness, more than thirty days in any year of his term, his salary during such period in excess of said thirty days shall not be paid to him.

§ 5. It shall be the duty of the police officers in the city to serve all process issued by the city judge or acting city judge. Upon any criminal warrant, duly issued by the city judge of Yonkers, any peace officer, including any member of the police department authorized to serve the same, may execute such warrant in any part of the state, without further endorsement or warrant.

§ 6. Any person, or any police officer shall have the power at all times, to arrest or cause to be arrested, with or without process, within the limits of the city, habitual drunkards, persons found intoxicated in streets or public places, or engaged in quarreling or fighting, or immoderate riding or driving, or doing anything calculated to endanger persons or property in any of the streets or public places, vagrants, mendicants, beggars, common prostitutes, gamblers, in addition to those persons enumerated in section eight hundred and ninety-nine of the code of criminal procedure, all of whom shall be deemed disorderly persons. The said officers shall have power, with or without process, while in pursuit of such disorderly persons, to enter, or cause to be entered, any building or place, and upon the arrest of any such person, to take him before the city judge, to be dealt with according to law. In case the

city judge for the time being cannot be found, the officer arresting any such offender may detain him in custody, or commit him to the county jail, or any other convenient place for safe-keeping, until such city judge can be found, not to exceed twenty-four hours. Any such officer shall have power to command assistance whenever he shall deem it necessary.

§ 7. When any person charged with being a disorderly person, under the provisions of this act, shall be arrested and brought before the city judge, he shall proceed forthwith to hear, try and determine the complaint or charge on which said person was arrested; or he may, on cause shown, adjourn the trial for not exceeding eight days, and in the meantime shall commit the accused to the county jail, or to any other secure place, until such day, or suffer him to go at large on his executing a bond, with sureties approved by the city judge, conditioned that he will appear on such adjourned day; and upon the conviction of any such offender the city judge shall have power to punish, by fine not exceeding fifty dollars, or by imprisonment in the county jail of Westchester county, for not exceeding six months, or such penitentiary as shall be provided by the board of supervisors of Westchester county by contract, for the reception of criminals sentenced for not less than sixty days, or by both said fine and imprisonment.

§ 8. Persons convicted of any criminal offense in the said city shall be confined in the county jail of Westchester county, Kings county penitentiary or such other institution as shall be provided by the board of supervisors of Westchester county, or by the laws of the state, for the reception of criminals, and whenever any person shall be sentenced for a term of imprisonment less than fifteen days he may be sentenced to imprisonment within the city, and in such case shall be committed to the lockup or prison maintained at police headquarters in the city, which is hereby designated as the city prison.

§ 9. The clerk of the city court shall be the clerk of the court of special sessions, shall have the power to take information upon which warrants for the arrest of persons charged with the commission of a crime may be issued by the city judge. Such clerk shall also have the power to issue and sign subpœnas, to administer oaths to witnesses, to make and sign executions, commitments and certificates of conviction and to certify to, and sign, copies thereof for the execution of any judgments rendered in

the city court or as a court of special sessions, and the clerk of the city court shall have power to take bail for any person arrested or charged with a misdemeanor for his appearance before the city judge or acting city judge and to continue and adjourn cases in the court of special sessions in the absence of the judge of said court, until the city judge or acting city judge shall be again in court. The clerk of the city court shall receive all fines, penalties and other moneys or fees, and shall pay the same into the city treasury, on or before the last day of the month in which received, and the clerk of the city court shall report to the common council, at the first regular meeting thereof in each month, the number and names of persons fined, and the names of persons against whom judgments shall have been rendered by said city judge or acting city judge for any penalty or penalties with the dates and amounts of such fines and penalties respectively. The commissioner of public safety, at the request of the city judge, may detail from time to time a member of the police department as an attendant upon the city court and court of special sessions held by the city judge who shall perform such services as may be required of him by the city judge, and shall be subject to the order and control of said city judge and no other person while so detailed.

§ 10. In the court of special sessions at the time of interposing any plea which forms an issue of fact, except upon a charge of being a disorderly person under this act, the defendant may demand a trial by jury, and unless so demanded, or within five days thereafter, then a trial by jury is waived.

§ 11. When a trial by jury is duly demanded as above provided, in a criminal action or proceeding in a court of special sessions in said city, or before the city judge or any other magistrate authorized to try the same, the city judge or other magistrate shall draw from the box or other receptacle from which trial jurors are drawn for service in the city court of Yonkers, ballots to such number as he shall deem necessary to secure a jury of six for the trial of the issue. If a person whose name is thus drawn shall reside more than two miles from the place where the trial is to be had, he may, in his discretion, set aside such juror and draw another ballot and so continue until the number required by him shall be drawn to serve as jurors. Such city judge or other magistrate shall thereupon insert or cause to be inserted the names of the persons so drawn in an order directed to and delivered to the

sheriff or any constable of the city, or the marshal of the city court of Yonkers, or any police officer of said city, commanding him to summon the persons therein named to appear at a time and place therein named to constitute a jury for the trial of the alleged offense. The officer to whom said order is delivered shall cause a notice to be served personally upon each of the jurors so drawn or left at his usual place of business or at his residence with some person of proper age, at least twenty-four hours before he shall be required to attend, which notice shall specify the day on which said juror is required to be present in court. He shall then make his return to said order, certifying in what manner the notice was served upon each of the persons therein named and, in each case of his being unable to do so, the reason thereof. Any person specified in such order so summoned, not attending at the time and place and not having sufficient legal excuse for doing so, is hereby declared guilty of contempt of court and is punishable by a fine not exceeding fifty dollars, or imprisonment for not more than thirty days, or by both such fine and imprisonment. The names of the persons so summoned and returned as jurors must be written on separate ballots folded as nearly alike as possible, so that the name cannot be seen, and must, under the direction of the city judge or other magistrate, be deposited in a box or other convenient receptacle and he must then draw out, or cause to be drawn out, by the clerk of the city court, six of the ballots successively and if any of the persons whose names are drawn do not appear, or are challenged and set aside, such further number must be drawn as will make a jury of six, after all legal challenges have been allowed. If six of the jurors summoned do not attend or be not obtained, the city judge or other magistrate again and as often as he deems necessary until a jury of six shall be obtained, shall draw from the said first mentioned box or other receptacle, from which trial jurors are drawn for service in the city court of Yonkers, other ballots to such number as he shall at each time deem necessary, excepting such ballots as contain the names of persons residing more than one mile from the place where the trial is to be had, and of persons whose attendance, in the opinion of the city judge or other magistrate, cannot be obtained forthwith, or within the time required, and shall orally direct the officer to summon the persons named on such ballots, forthwith to attend to constitute such jury, or he may adjourn the trial for such time as he shall deem necessary to obtain such other jurors and may orally or in writing direct

the officer to summon such person at that time to attend. No person shall be empaneled on any such jury, except he be drawn from the said first mentioned box or receptacle and shall be upon the list prepared by the assessors of persons qualified for service as trial jurors in the city court of Yonkers, unless by consent of the parties in the action or proceeding. Any officer to whom shall be delivered such order to summon jurors or who shall be orally directed to summon such jurors, who shall wilfully disobey such order or direction or shall omit any duty in relation thereto, or shall fail to return as summoned any person whom he shall have been able to find to summon or shall fail to make due effort to find any person to summon or shall make any false return, shall be deemed guilty of a misdemeanor.

§ 12. The clerk of the city court shall keep a docket of the criminal business transacted in the court of special sessions. Said docket shall contain the names and sex, as near as possible the age of all persons against whom complaints or charges have been made, the nature and date of the complaint or charge, and the name and residence of the complainant, the dates, nature and result of all trials and examinations; the names of all persons waiving examinations; the names of all persons giving bail and its amount, and the names and residence of all bondsmen: the names, residence and age, as near as possible, and sex of all persons fined, convicted, held for trial or sent to any other court for trial and for what cause, and at what date; the date at which any fine is paid, by whom and the amount; the name, residence, age and sex of all persons discharged, of what charge, and at what date, together with a memorandum of the cause of such discharge. Such record and all books and papers kept by the city judge shall be and remain the property of the city. Such docket, or any part or transcript thereof, may be read in evidence in the same manner as a docket or a transcript of a docket of a justice of the peace.

§ 13. The mayor of the city of Yonkers shall designate in writing, to be filed with the city clerk, an acting city judge. He shall be an attorney of the supreme court and shall be and continue a resident of the city of Yonkers, during his term of office. The acting city judge shall only in case of sickness, absence from the city, disability or inability of the city judge to act, exercise in the place and stead of the city judge criminal jurisdiction such as is conferred by law upon the city judge, during the times

such sickness, absence, disability or inability shall continue. The mayor may revoke such designation and redesignate at will. In case any criminal warrant issued by the city judge shall be returned during his absence from the city, sickness, disability or inability to act, any further proceedings on such warrant may be had before the acting city judge, and said acting city judge having once entered on the trial of an action or proceeding under this section, and not otherwise, may proceed to determine it. The acting city judge shall be entitled to receive such sum as the board of estimate and apportionment shall determine, to be audited, allowed and paid by the comptroller, upon presentation by such acting city judge of a verified bill of items for each day's services. Claims for such services shall be presented to the comptroller monthly. While so acting the acting city judge shall sign all papers and process as acting city judge of Yonkers.

§ 14. The city judge shall annually at the presentation of claims against the county of Westchester, make out and verify his account of all official business done by him or by the acting city judge, which, if performed by a justice of the peace, would be a county charge and present the same to the board of supervisors of said county, who shall audit and allow it to the city of Yonkers, and levy and collect the same as other county charges, and when collected cause the same to be paid into the city treasury.

§ 15. The city judge of Yonkers shall have power to impose or suspend sentence in the case of any person convicted and may release any such person upon probation upon such terms and conditions, and for such period not exceeding one year as the court shall deem advisable. A person released on probation in accordance with the provisions of this section shall be placed under the charge and supervision of a probation officer to be appointed as provided in this section, and shall be furnished by the city judge or clerk of the court with a written statement of the terms and conditions of his release. If at any time during the probationary term of a person convicted and released under the provisions of this section it shall appear to the court or city judge that such person has violated any of the terms or conditions of his release, the said court or city judge may issue a warrant for the arrest of such person, and if it shall appear that such violation has occurred, he may commit him, in accordance with the provisions of this section in the same manner as if such

person had not theretofore been released upon probation, or to remit to probation pursuant to law. The city judge of Yonkers may appoint such number of salaried probation officers, to hold office during his pleasure, at a salary fixed by the board of estimate and apportionment as may be prescribed by the board of estimate and apportionment upon the recommendation of the city judge, and may include one or more female probation officers. The said city judge may appoint from time to time, to serve at his pleasure, and without compensation, such additional number of probation officers as he may deem desirable.

§ 16. It shall be the duty of a probation officer to be present in court at such times and for such hours as directed by the city judge, court, or other magistrate under whose jurisdiction such officer shall be serving; to inquire into the antecedents and character of such persons taken into custody and brought before the court, or confined within the jurisdiction of such court, as such court shall designate; and to report thereon in writing or verbally, to the court, at such time, and in such manner as the court shall require. He shall also keep himself informed of the conduct and surroundings of those placed on probation under his supervision; and, so far as practicable, he shall aid and encourage them by friendly advice and admonition to keep the terms of their probation; and by the exercise of interest and concern in their welfare, he shall endeavor to reclaim them from evil courses; and he shall report to the court from time to time the results obtained. It shall also be the duty of a probation officer appointed by the city judge to make report of his proceedings to said city judge, and otherwise act according to law, and as directed by the rules and regulations of said city judge. Each probation officer appointed by the city judge shall perform such further duties as shall be designated or required of him by said judge.

§ 17. No probation officer shall divulge or communicate to any person, other than to the state commission, city judge, or other magistrate, under whose jurisdiction he is serving, without the consent of the city judge or magistrate appointing him, any facts or information obtained pursuant to the discharge of his duties; nor shall any record of any probationer be made public except in accordance with such rules and regulations therefor as may be provided by the city judge or magistrate holding the court having jurisdiction over such probationer.

§ 18. Upon the termination of the probation period the probation officer shall report the fact to the court and also the conduct of the probationer during the period of probation, and the court may thereupon discharge the probationer from further supervision, or extend the probation period, as the circumstances require. When a probationer is so discharged entry of the discharge shall be made in the records of the court, together with a statement as to the conduct of the probationer during the term of his probation, and his compliance with the terms and conditions of his release.

§ 19. Each probation officer shall have, as to the prisoners committed to his care, the powers of a peace officer.

§ 20. The justices of the peace shall have all the powers and jurisdiction, discharge the duties and be entitled to the fees and compensations of justices of the peace of the several towns in this state as provided for in "the town law," but no justice of the peace shall have any criminal jurisdiction. The city clerk's office shall be substituted in place of the town clerk's office, in all proceedings and matters connected with justices of the peace.

ARTICLE XIV.

MISCELLANEOUS PROVISIONS.

Section 1. Except as otherwise herein expressly provided, every officer elected or appointed for a definite term and in office when this act shall take effect shall continue in office for the term for which he was elected or appointed.

§ 2. Nothing contained in this act shall be construed to repeal any statute of the state, or any ordinance of the city, or any rule or regulation of the board of health or department of health, or any rules, regulations and ordinances of the board of water commissioners, or any rule or regulation of the board of education in the city of Yonkers, not expressly repealed hereby, as hereinafter provided, and not inconsistent with the provisions of this act; and the same shall remain in full force and effect, when not inconsistent with the provisions of this act, to be construed in harmony with its provisions. The powers which are conferred and duties which are imposed upon any officer or department of the city under any statute of the state or any ordinance of the city, or any rule or regulation of the board of health or department of health, or any rule, regulation or ordinance of the board of water commis-

sioners, or any rule or regulation of the board of education in the city of Yonkers which is in force at the time of the taking effect of this act, shall, if such office be abolished by this act, be thereafter exercised and discharged by the officer, board or department upon whom are imposed corresponding or like functions, powers and duties under the provisions of this act or under the provisions of chapter four hundred and seventy-three of the laws of nineteen hundred and six. All contracts, debts, bonds, obligations, undertakings, and all liabilities both in law or in equity, heretofore lawfully made or incurred, by, with, or to, or accruing to the benefit of the board of education in the city of Yonkers, or any of the school districts in the city of Yonkers consolidated into one school district by chapter three hundred and ninety-seven of the laws of eighteen hundred and eighty-one as amended by chapter five hundred and forty-three of the laws of eighteen hundred and ninety-nine, shall not be impaired, but shall be assumed and paid by, and shall accrue to the benefit of the city of Yonkers.

§ 3. The provisions of this act, so far as they are substantially the same, or cover the same subject matter, as those of any law repealed hereby, shall be construed as a continuance of such repealed law, modified or amended, according to the language employed herein and not as new enactments. References in law not repealed to the provisions of any law incorporated into this act, shall be construed as applying to the provisions so incorporated. Nothing contained in this act shall be construed as relieving a street surface railway corporation, or any other corporation, from its obligations, liabilities, duties or agreements under existing contracts, ordinances or laws. The meaning and effect of the terms and language used herein shall be construed in accordance with the provisions of the statutory construction law. This act is intended to be and be deemed and held in all courts to be a public act of which the court shall take judicial notice, and shall be liberally construed so as to carry into effect the objects and purposes thereof.

§ 4. The repeal of a law, or any part of any law, by the provisions of this act, shall not affect or impair any act done or right accruing, accrued or acquired, or penalty, forfeiture or punishment, or any bar, limitation or defense incurred prior to the time when this act takes effect, under or by virtue of the law so repealed, but the same may be asserted, enforced, prosecuted or inflicted as fully and to the same extent as if such law had not

been repealed, except as to bars, limitations and defenses which it is specifically provided herein may not be asserted or enforced against the city, its boards or officers; and all actions or proceedings, civil or criminal, commenced under or by virtue of any law so repealed and pending when this act takes effect, may be prosecuted and defended to final effect in the same manner as they might under any such law so repealed, unless it be otherwise specifically provided herein. Any limitation or bar imposed by any act repealed hereby, shall be computed from the time when the same began to run, and if the whole time thereof has been completed when this act takes effect, such bar or limitation shall become absolute, except as to bars, limitations and defenses which it is specifically provided herein may not be asserted or enforced against the city, its boards or officers; but if the whole time thereof has not been completed, the time thereof which has run before the taking effect of this act shall be computed as a part of the time provided by this act as such limitation or bar. The repeal hereby of a law or part of any law, does not revive a law repealed by the law or part of a law hereby repealed, and includes all laws amendatory of the laws hereby repealed.

§ 5. All acts and parts of acts inconsistent herewith are repealed so far as they affect the city of Yonkers; and the acts enumerated in the schedule annexed, are repealed.

§ 6. This act shall take effect immediately.

SCHEDULE OF LAWS REPEALED.

Laws of	Chapter
1853	621
1855	331
1857	582
1857	767
1860	366
1860	455
1861	284
1862	75
1865	506
1865	547
1865	632
1866	155
1866	270
1867	355

Laws of	Chapter
1868	673
1871	240
1871	512
1871	916
1872	866
1873	25
1873	36
1873	163
1873	721
1874	198
1874	217
1874	557
1875	562
1875	578
1875	579
1876	45
1876	174
1876	179
1876	216
1876	260
1877	316
1878	119
1879	127
1880	441
1880	442
1881	158
1881	184
1881	397
1881	474
1881	502
1881	512
1882	211
1882	281
1882	45
1883	85
1883	143
1883	300
1884	225
1884	238
1886	6
1886	133

Laws of	Chapter
1886	279
1886	555
1886	557
1887	2
1887	19
1887	34
1887	96
1887	252
1888	385
1888	386
1888	387
1888	390
1888	393
1889	391
1889	428
1890	108
1890	195
1890	455
1890	465
1890	466
1892	54
1892	240
1892	241
1892	371
1892	492
1893	213
1893	255
1893	446
1893	596
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1901	316
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1902	450
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1902	459
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Chap. 453.

AN ACT to amend chapter one hundred and eighteen of the laws of eighteen hundred and ninety-seven, entitled "An act to make the office of county clerk of Oswego county a salaried office, and regulating the management of said office, and fixing the salary of said clerk and his assistants," in relation to appointment of mortgage tax clerk and fixing his salary.

Became a law, May 21, 1908, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section eight of chapter one hundred and eighteen of the laws of eighteen hundred and ninety-seven, entitled "An act to make the office of county clerk of Oswego county a salaried office, and regulating the management of said office and fixing the salary of said clerk and his assistants," as amended by chapter one hundred and forty-three of the laws of nineteen hundred and six, is hereby amended to read as follows:

§ 8. There shall be one deputy clerk, one special deputy and court clerk, one search clerk, one index clerk, one mortgage tax clerk, whose salary shall be fixed by the board of supervisors, one miscellaneous clerk and three copying clerks, all of whom shall be appointed by said county clerk. The said clerks shall receive the following salaries: The deputy clerk twelve hundred dollars per annum; the special deputy and court clerk seven hundred and twenty dollars per annum; the search clerk twelve hundred dollars per annum; the index clerk seven hundred and twenty dollars per annum, and the miscellaneous clerk seven hundred and twenty dollars per annum. The copying clerks shall be paid by the folio, at the rate of three cents for each folio. The salaries and compensation of the said clerk and his assistants shall be paid by the county treasurer upon the certificate of the county clerk showing the amount due to each and for what.

§ 2. The salaries specified in section eight, as amended, shall be paid from January first, nineteen hundred and eight.

§ 3. This act shall take effect immediately.

Chap. 454.

AN ACT to incorporate the city of Oneonta.

Became a law, May 21, 1908, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

THE CHARTER OF THE CITY OF ONEONTA.

Titlo I. Incorporation, boundaries and definitions.
II. City officers, elections, appointments, terms of office, compensation.
III. City officers, their general powers and duties.
IV. The common council.
V. Department of public works, improvements.
VI. Fire department.
VII. Police department.
VIII. Department of charities.
IX. Department of public instruction.
X. Board of health.
XI. Assessment and taxation.
XII. City court.
XIII. Department of law.
XIV. Actions by and against the city.
XV. Public library.
XVI. Miscellaneous.

TITLE I.

INCORPORATION, BOUNDARIES AND DEFINITIONS.

Section 1. Short title; public act.
2. Boundaries of the city.
3. Corporate name and powers.
4. Wards and boundaries.
5. Definitions.

Section 1. **Short title; public act.**— This act is a public act and shall be known as " the charter of the city of Oneonta."

§ 2. **Boundaries of the city.**—All that tract of land in the town of Oneonta, county of Otsego and state of New York, included within the following boundaries, is hereby constituted a city which shall be known as the "city of Oneonta," to-wit: Beginning at the north bank of the north branch of the Susquehanna river at the southeast corner of lot number one hundred and eighty-six of the Wallace patent; running thence northerly along the line between lots one hundred and eighty-six and one hundred and eighty-seven of said patent to a point thereon which is a direct continuation easterly of the center line of Center street; thence westerly, along said center line so extended, to the easterly line of lot one hundred and eighty-three of said Wallace patent; thence northerly along the line between lots one hundred and eighty-three and one hundred and eighty-four to the Otego patent or Burlington township line; thence westerly along said township line to the northwest corner of lot number one hundred and sixty-five of said patent and continuing thence in the same direction to the northeasterly corner of the farm now owned by Charles N. Murdock, being a stake and stones, being also the northwesterly corner of the farm long known as the Moffat farm; thence as described in the deed of said Murdock farm, south twenty-four degrees forty-five minutes west, twenty-two chains and seventy links along a line of marked trees to the stake and stones; thence south eighty-nine degrees forty-five minutes west, eighteen chains and eighty links to a stake set in the angle of a stone wall; thence south twenty-five degrees forty-five minutes west, forty-two chains and eighty links to a stake and stone and continuing thence in the same direction to the center of Chestnut street, thence in the same direction along the westerly line of lands of William Shafer to the northerly bounds of the lands of the Albany and Susquehanna Railroad Company; thence westerly and southerly along the lands of Samuel Richard and of said railroad company as said company has recently acquired the same, to be north bounds of lot number two hundred and four of the Wallace patent; thence easterly along said patent line across the lands of the Albany and Susquehanna Railroad Company to the middle of the Susquehanna river; thence up along the middle of said river to the east end of Big island; thence down along the north bank of the north branch of said river to the place of beginning.

§ 3. **Corporate name and powers.**—(a) The citizens of the state of New York from time to time inhabitants within the

boundaries of the "city of Oneonta" as aforesaid shall be a municipal corporation in perpetuity, under the name of the "city of Oneonta." The said corporation may take, purchase, hold, sell and convey real and personal property; it may take by gift, grant, bequest and devise, and hold real and personal estate in trust or perpetuity for any purpose of education, art, health, charity or amusement, for parks or gardens, for the erection of statues, monuments, public buildings or other public use, upon such terms as may be prescribed by the grantor or donor and accepted by said corporation, and may provide for the proper execution of said trust, and may have, use and from time to time alter a common seal, may sue and defend in all courts, and may do anything necessary to carry into effect the powers granted to it.

(b) **Town of Oneonta.**— The town of Oneonta shall hereafter consist of all the territory heretofore constituting said town, except that portion thereof embraced within the boundaries of the city of Oneonta, and the territory embraced within the boundaries of said city as hereinbefore described shall not constitute or be a part of the town of Oneonta.

(c) **Succession of liabilities.**— The corporation known as the village of Oneonta, and included in the above-described boundaries of said city is hereby dissolved, subject to the provisions of this act. The city of Oneonta shall succeed to and be vested with all the rights and property of the said village of Oneonta, and shall succeed to and be liable for all the liabilities of said village corporation, of every name and nature; and every suit, prosecution, or proceeding commenced by or against said village corporation, and pending at the time of the passage of this act, may be continued by or against and in the name of said village, or at the option of the parties thereto, the name of said city may be substituted instead of said village corporation and in the name of said city all suits, actions or proceedings may be continued. All divisions of said village into road, fire or other districts, highways, streets, parks and alleys, shall remain, be and continue such divisions, highways, streets, parks and alleys in the city of Oneonta; and all ordinances, rules and regulations of the board of trustees of the said village of Oneonta in force at the time of the passage of this act shall be and continue to be in force, over the entire limits of the city of Oneonta as by and in this act established, until repealed, modified or changed by the common

council of said city; subject, however, to the provisions of this act. The said common council is hereby authorized and empowered, in the name, for and in behalf of the city of Oneonta, to enforce all such ordinances, rules and regulations, and all contracts of said village, including collections of debts and demands, imposition and collection of fines and penalties, prosecution and defense of suits; and to do, take and perform all other acts and proceedings that may be or become necessary or proper to carry out and enforce said contracts, ordinances, rules and regulations with the same force and to the full extent, as might have been done by or on the part of the board of trustees of said village; and the rights and privileges of all persons, corporations or parties that may have arisen or accrued under, pursuant to or by reason of, any such contract, ordinance, rule, regulation, law or otherwise as well as any liability that may have arisen by reason thereof, shall remain and be the same under this act as they would have been under the village charter of said village; and all rights and liabilities of said village, existing at the time of the passage of this act, shall be in no wise affected or changed thereby; but all actions and proceedings which may be hereafter commenced to enforce or protect any such accrued or existing rights, privileges or liabilities, shall be brought and prosecuted or defended by or in the name of the city of Oneonta.

§ 4. **Wards and boundaries.**— The territory within the bounds of the city of Oneonta shall be divided into six wards, as follows:

First ward.— Said ward begins on the northerly bank of the Susquehanna river, where it is intersected by the line between lots one hundred and eighty-six and one hundred and eighty-seven, of Wallace patent, and runs thence northerly along said line to its intersection with the center line of Main street, thence westerly along the center line of Main street to its intersection with the center line of Broad street; thence southwesterly along the center line of Broad street and the continuation thereof to the Susquehanna river; thence up along said river as it winds and turns to the easterly end of Big island; thence westerly along the north branch of said river to the place of beginning.

Second ward.— Said ward begins where the center line of Main street intersects the easterly bounds of the city and runs thence northerly along said easterly bounds between lots one hundred and eighty-six and one hundred and eighty-seven of Wallace patent to a point where the center line of Center street, if con-

tinued easterly, would intersect the same; thence westerly along said center line so continued to the line between lots one hundred and eighty-three and one hundred and eighty-four of Wallace patent; thence northerly along said lot lines to the Burlington township line; thence westerly along said township line to a point where the center line of Elm street if continued northerly would intersect the same; thence southerly along the center line of Elm street to its intersection with the center line of Main street; thence easterly along the center line of Main street to the place of beginning.

Third ward.—Said ward begins at the intersection of the center lines of Main and Elm streets and runs thence southwesterly along the center line of Main street to its intersection with the center line of Dietz street; thence northerly along the center line of Dietz street to its intersection with the center line of Washington street; thence westerly along said Washington street center line to its intersection with the center line of Church street; thence southerly along said Church street center line to its intersection with the center line of Columbia street; thence westerly along the center line of Columbia street to its intersection with the center line of West street; thence northerly along the center line of West street to its intersection with the center line of Center street; thence westerly along the center line of Center street so continued to its intersection with the westerly line of lot one hundred and sixty-five of Wallace patent; thence northeasterly along said lot line to its intersection with the northerly bounds of the city; thence easterly along said northerly bounds to its intersection with the center line of Elm street if continued; thence southerly along the center line of Elm street in a straight line to the place of beginning.

Fourth ward.— Said ward begins at a point in the center line of Main street at its intersection with Dietz street and runs thence along said Dietz street center line to its intersection with the center line of Washington street; thence westerly along the center line of Washington street to its intersection with Church street; thence southerly along the center line of Church street to its intersection with the center line of Columbia street; thence westerly along the center line of Columbia street to its intersection with the center line of West street; thence northerly along the center line of West street to its intersection with the center line of Center street; thence westerly along the center line of Center

street continued westerly to its intersection with the center line of Clinton street; thence southwesterly along the center line of Clinton street to its intersection with the center line of Chestnut street; thence southeasterly along the center line of Chestnut street to its intersection with the center line of Main street; thence southwesterly along the center line of Main street to its intersection with the center line of the Albany and Susquehanna Railroad Company; thence easterly along said railroad center line to its intersection with the center line of Broad street, when continued southerly; thence northwesterly along the center line of Broad street to its intersection with Main street; thence westerly along the center line of Main street to the place of beginning.

Fifth ward.— Said ward begins at the intersection of the center line of the Albany and Susquehanna railroad with Main street and runs thence northeasterly along Main street center line to its intersection with Chestnut street; thence northwesterly along Chestnut street center line to its intersection with the center line of Clinton street; thence northeasterly along the center line of Clinton street to its intersection with the center line of Center street, extended westerly; thence westerly along the center line of Center street extended westerly in a straight line to the westerly bounds of lot one hundred and sixty-five of Wallace patent; thence northeasterly along said patent line to the Burlington township line; thence westerly along said Burlington township line and a direct continuation thereof, to the northeasterly corner of the Charles N. Murdock farm, being also the northwesterly corner of the Moffat farm, being the westerly bounds of the city limits; thence southerly along said city limits to the northerly bounds of the Albany and Susquehanna Railroad Company's lands; thence westerly along said railroad lands to the north bounds of lot number two hundred and four of said Wallace patent; thence easterly along the center line of the Albany and Susquehanna Railroad Company's lands to the place of beginning.

Sixth ward.— Said ward begins at the Susquehanna river where it is intersected by a direct continuation of the center line of Broad street and runs thence northwesterly along said line to its intersection with the center line of the said railroad company; thence westerly along said railroad center line to its intersection with the westerly bounds of said city; thence southerly along said westerly bounds to the Susquehanna river; thence up along said river as it winds and turns to the place of beginning.

5. **Definitions.**— The official and fiscal year of the city shall begin with the first day of January in each year, except for the purposes of the board of education and of the library board, and except as otherwise provided in this act. The term resolution as used in this act includes all motions, orders, rules, regulations and by-laws other than ordinances.

TITLE II.

CITY OFFICERS; ELIGIBILITY, APPOINTMENTS, TERMS OF OFFICE, COMPENSATION, FILLING VACANCIES.

Section 10. City officers.
11. Eligibility to city offices.
12. Elective city officers enumerated.
13. Appointive city officers enumerated; by whom appointed; their terms of office.
14. Compensation of city officers.
15. Commencement and expiration of terms of office.
16. Primaries.
17. City elections.
18. Canvass of votes at regular city election.
19. Official salaries, when payable; fees and perquisites.
20. Suspensions and removals of city officers.
21. Filling vacancies.
22. Terms of office.

§ 10. **City officers.**— The officers of the city shall be a mayor, a city judge, a chamberlain, two assessors, two constables, a commissioner of charities, a clerk, an attorney, four commissioners of public works, a superintendent of public works, an engineer, four fire commissioners, four police commissioners, one captain of police, a sergeant and such number of patrolmen as the common council may determine upon, six members of the board of education, a superintendent of schools, six members of the board of health, and five members of the library board. There shall also be one alderman for each ward of said city; one supervisor for the first and second wards, one for the third and fourth wards and one for the fifth and sixth wards.

§ 11. **Eligibility to city offices.**— No person shall be eligible to be mayor of the city or alderman, unless at the time of his election he shall be, and for one year immediately prior thereto he shall have been, the owner of real estate within the limits of said city. No person shall be elected or appointed to any city

office, other than city engineer, superintendent of public works or superintendent of schools, unless he shall at the time be a resident elector of said city, nor to any ward office unless he shall, at the time, be a resident elector of the ward for which he is elected or appointed. No person shall be elected city judge unless he shall have been, for at least two years previous to his election, duly admitted to practice as an attorney and counselor in the several courts of this state. Whenever any officer of said city, other than city engineer, shall cease to be a resident of said city or of the district or ward for which he was elected or appointed, his office shall thereby become vacant. No person shall, at the same time, hold more than one city office in said city other than a commissioner of deeds, who may also hold any other city office, except the office of mayor or city judge.

§ 12. **Elective city officers enumerated.**— The elective city officers to be elected by the city at large shall be a mayor, a city judge, a chamberlain, two assessors, and two constables; the elective officers of the city to be elected by each ward shall be one alderman. Wards one and two shall elect one supervisor, wards three and four one supervisor, and wards five and six one supervisor.

Term of elective officers.— Other than as provided by this act, the term of office of the mayor shall be two years, city judge two years, chamberlain two years, assessors two years, constables two years, of the aldermen two years.

§ 13. **Appointive city officers enumerated; by whom appointed, their terms of office.**— 1. The appointive officers of the city shall be a city clerk, a city attorney, a commissioner of charities, six members of the board of health, four fire commissioners, four police commisioners,* four commissioners of public works, each of which officers shall be appointed by the mayor, subject to the confirmation of the common council; and the appointees upon any of the said boards or commissions shall be such that a majority of the members thereof shall not belong to one political party; six members of the board of education to be appointed by the mayor, subject to the confirmation of the common council; one captain of police, one sergeant and such number of patrolmen as the common council may determine, to be appointed by the board of police commissioners; a city engineer and a superintendent of public works, each of whom shall be appointed by the board of public works; a superintendent of schools who shall be appointed

* So in original.

by the board of education; and such other appointive officers as may be authorized and required by general laws, each of whom shall be appointed by the mayor subject to the confirmation of the common council, unless otherwise provided by such general laws.

2. **Terms of office of appointive officers.**— Subject to the provisions of sections twenty, twenty-two, two hundred and fifty and others of this act, the term of office of the city clerk shall be one year, of the city attorney one year, of the commissioner of charities one year, of the superintendent of schools one year, of the superintendent of public works one year, of the city engineer one year, of each commissioner of public works two years, of each police commissioner two years, of each fire commissioner two years, of each member of the board of health three years, of each of said other officers authorized and required by general laws, the time specified in said laws.

§ 14. **Compensation of city officers.**— The mayor, aldermen, fire and police commissioners, members of the city board of health, board of education, trustees of the public library and board of public works shall receive no compensation for their services. The annual salary of the city judge shall be nine hundred dollars. The common council shall have the power to fix and change the annual salaries of the city chamberlain, of the city clerk, of the commissioner of charities, of the city assessors, the corporation counsel and all other salaried officers of the city, except such as are otherwise provided by law or this act, but every such salary, except those fixed within ten days from the time this act takes effect, shall be fixed by resolution at least six months before beginning of the term of office to which it belongs, and shall not be increased or diminished during the continuance of such term of office. Every resolution fixing or changing a salary, except those passed within said ten days, shall be published, after its introduction, after any change therein and before being finally acted upon, in the official newspapers of the city once a week for four successive weeks. The city engineer and the superintendent of public works shall receive such compensation as shall be determined by the board of public works. The captain of police shall receive a monthly salary to be fixed by the board of police commissioners not to exceed the sum of seventy-five dollars, the sergeant and the patrolmen, other than special policemen, a monthly salary to be fixed by the board of police com-

missioners not to exceed the sum of sixty dollars; the supervisors and constables, respectively, shall, except as modified by this act, be entitled to the same compensation for their services as the corresponding officers in towns are entitled to receive for like service; the inspectors of election and such other officers as are authorized to be appointed shall receive the compensation fixed by the general law. No other appointive officer of the city shall be entitled to receive from the city any compensation for his services unless otherwise provided by this act or by a general law.

§ 15. **Commencement and expiration of terms of office.**— The term of office of each officer elected at a general city election shall, other than as herein provided, commence with the beginning of the next fiscal and official year after such election, namely, the first day of January following his election. The term of office of each officer appointed by the mayor for a full term shall, other than as herein provided, commence on the fifteenth of January of the year in which the appointment is required to be made. The term of office of the superintendent of public works and of the city engineer shall begin on the first of February of the year in which the appointment is required to be made. The office of superintendent of schools shall begin on the first day of August of the year in which the appointment is or is required to be made.

§ 16. **Primaries.**— Every primary within the city of Oneonta, of any political party, which is held for the nomination of any elective officer of said city, except ward officer, shall be held on the fifth Tuesday prior to the day of election, and every primary of such party for the selection of delegates from said city or a part thereof to represent such party at a convention shall be held on the Saturday prior to such convention. Such nominations and selections shall be made by ballot and shall be determined by pluralities. Upon the written request of not less than five members of the party residing within the district, filed not less than five days prior to the date of the primary, with the chairman or secretary of the city committee of the party in case of nominations or in case of the selection of delegates of the party committee of the district to be represented by such delegates, the polls shall be kept open from four o'clock to eight o'clock in the afternoon. In case no such request be filed then the polls need not be kept open longer than is necessary

to give the qualified voters present an opportunity to vote. Any person desiring to present the name of a candidate for nomination for any such office, to be filled at the ensuing election, or a candidate for delegate or alternate from his party to represent said city or any part thereof at an ensuing convention may, not less than five days before the primary day, file with the city clerk a notice of said desire signed by not less than ten members of his party, who shall declare therein that they will support such candidate; or he may, not less than two days before the primary day, so file such notice signed by such number of the members of his party residing within the district as shall constitute not less than ten per centum of the number of votes cast by his party within said district at the last preceding election for governor. Said notice shall not be filed unless accompanied by the written consent of the person named to accept such nomination or selection. All ballots for any person whose name has not been so presented shall be void unless no name has been so presented for any particular nomination or selection, in which case all ballots for said nomination or selection shall be counted. No such notice shall be valid if it contains the names of more candidates for any particular office or position than there are persons to be chosen for such office or position. All vacancies shall be filled by the city committee of the party except vacancies in any delegation consisting of more than one member, in which case the vacancy shall be filled by the remainder of the delegation. Any contest for a nomination for any such city office may be summarily heard and determined by any justice of the supreme court upon two days' notice. Any contest for the position of delegate to a convention shall be determined by such convention. One person shall not sign more than one notice for the nomination of any candidate for the same office, and shall not give notice of his desire for the selection of more persons as delegates or alternates than are to be chosen and any notice in excess thereof shall be void. Except as modified by this act article three of the general election law shall govern such primaries. Every primary for the nomination of any ward officer shall be held on the Monday preceding the fifth Tuesday prior to the day of election and shall begin at some time between the hours of seven and eight o'clock in the evening, which time shall be specified in the notice of each such primary. If at any time any provision of this section shall be in conflict with

the provisions of any general law in force in said city then so much hereof as is in conflict with such law shall be suspended and inoperative so long as said general law shall be in force as aforesaid.

§ 17. **City elections.**— The common council shall provide polling places, ballot boxes and other necessary apparatus and material in each election district in said city for all elections in said city and the manner of conducting such elections shall, in all respects, conform to and be governed by the general laws of this state in respect to elections, not inconsistent with this act. Each ward shall constitute an election district. At each regular election other than as herein provided, a successor shall be elected to each elective city officer whose term of office shall expire with the year in which such election is held. Public notice of every election under this act, other than as hereinafter provided, shall be given by the common council, the notice thereof to be published in the official newspapers of said city at least once in each week for two consecutive weeks immediately preceding the holding of such election, which notice shall designate the officers to be voted for at such election or the proposition to be voted upon, and the location of each polling place, or by such notice and in such manner as may be required by the general election laws of the state. The city clerk shall, at least one week before the date fixed by law for the first meeting of the board of registry for a city election, notify each inspector of election, in writing, of his appointment as such inspector, and of each day for the meeting of the board of registry in each election district of the city and of the date of such election. Every inhabitant of said city who shall, at the time and place of offering his vote, be qualified to vote for member of assembly, shall then and there be entitled to vote for all officers to be elected by the city at large, and for all ward officers to be elected in his ward. To entitle any elector or voter to vote upon a proposition to purchase property or to raise money by tax or by bonds, or to appropriate the same, he must be at the time liable to be assessed for the payment of such purchase, tax, bond or appropriation in his own right or in the right of his wife. But no such proposition shall be deemed carried unless it received a majority of the entire number of votes cast thereon at said election.

§ 18. **Canvass of votes at regular city election.**— The common council of said city shall meet as a board of canvassers on the

next Thursday after each regular city election. The city clerk shall present to the common council at said meeting the certified statement of the result of such election in the several election districts of the city as delivered to him by the inspectors of election of such districts. The common council shall canvass such certified statements and determine and declare the whole number of votes cast for all the candidates for each office to be filled at such election, the number of votes cast for each such candidate and what person was elected thereto. The person having the greatest number of votes for the respective offices to be filled for the whole city and those having the greatest number of votes for the offices to be filled by the several wards shall be declared duly elected. In case of a tie vote, the mayor and common council shall fill such office by appointment for the full term. The city clerk shall enter such determinations and declarations in the minutes of the meeting of the common council.

§ 19. **Official salaries, when payable; fees and perquisites.**— The salaries of the city officers shall be payable in monthly installments on the first day of each month for the previous month. The compensation fixed by the common council or by law for the several officers shall be in full for all services which they shall respectively perform for said city in any and all capacities, other than as herein provided. All fees and perquisites received by such officer shall, other than as especially provided by this act, be paid into the treasury for the benefit of the general city fund.

§ 20. **Suspensions and removals of city officers.**— The mayor, common council and each city board, having appointive powers, may at will remove any city officer appointed by them. Upon the petition of not less than twenty-five per centum of the electors who are taxpayers of the city of Oneonta, any elective officer of said city may be removed by the supreme court or any justice thereof in the district including the city of Oneonta for dishonesty, incapacity, neglect of duty or other irregularity. Such petition and notice of the time same will be heard shall be duly served upon the officer sought to be removed, not less than ten days prior to such hearing. Before the service of such notice the petitioners shall deposit with the city chamberlain the sum of three hundred dollars, which in case of the denial of said petition shall be forfeited and paid to the officer sought to be removed in lieu of costs. The entry of the order of removal or a certified copy

thereof in the office of the clerk of the city of Oneonta shall constitute a vacancy in the office in question.

§ 21. **Filling vacancies.**— Other than as provided in this act, if a vacancy shall occur in any elective office of the city, otherwise than by expiration of term, the mayor and common council shall appoint a person to fill such vacancy for the balance of the unexpired term. If the vacancy shall occur in the office of mayor, it shall be filled by appointment made by the common council. A vacancy occurring in an appointive office of the city, otherwise than by expiration of term, shall be filled for the balance of the unexpired term by the same authorities and in the same manner as an appointment for a full term.

§ 22. **Terms of office.**— On or before the thirteenth day of January, nineteen hundred and nine, the mayor, subject to the provisions of section thirteen of this act, shall appoint the several officers subject to his appointment and the members of the various boards and commissions and at the same time designate the terms of office of each member so that the terms of office of two members not of the same political party, of each board or commission, and the terms of the other officers so appointed by him shall expire January fifteenth, nineteen hundred and ten, and two each of said members on the fifteenth day of each January thereafter. The designation of the members of the board of education and the library board may have no reference to politics. The several boards and commissions shall make their appointments as soon as convenient.

TITLE III.

CITY OFFICERS, THEIR GENERAL POWERS AND DUTIES.

Section 30. Official oath required by all city officers.
31. Official bond of city officers.
32. Liability of city officers for unauthorized expenditures.
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45. The assessors.
46. Powers and duties of supervisors.
47. Powers and duties of other city officers.
48. Payments of money must be made from and into general fund when not otherwise provided.

§ 30. **Official oath required of all city officers.**— Each officer of the city shall, before he enters upon the duties of his office, take and file his official oath in accordance with article thirteen of the constitution and section ten of the public officers' law, and for omission to do so he shall be subject to all the liabilities and penalties prescribed by section forty-two of the penal code and sections thirteen, fifteen and twenty of the public officers' law. Each mayor, clerk, city judge and commissioner of deeds shall, forthwith upon his election or appointment, file a certificate with the city clerk of his election or appointment tc act, and also take and subscribe the constitutional oath before any notary public.

§ 31. **Official bond of city officers.**— Each city clerk, constable, commissioner of charities and city judge shall, before he enters upon the duties of his office, execute and file an official bond in accordance with section sixteen of the statutory construction law and sections eleven, twelve and thirteen of the public officers' law, and for omission to do so shall be subject to the penalties and liabilities prescribed in section forty-two of the penal code and sections thirteen, fifteen and twenty of the public officers' law; other than as herein provided, the penal sum named in any such bond, or the sum specified in any such undertaking as the maximum amount of liability thereon shall be fixed by the common council. The city shall pay the premium, if any, upon said bonds.

§ 32. **Liability of city officers for unauthorized expenditures and other official misconduct.**— No officer of said city or other

person shall have power or authority to make any purchase in behalf of, or on the credit of, the city or to contract any debts or liabilities against the city, unless authorized to do so, by or in pursuance of the provisions of this act or general law; and no account, claim or demand of any kind shall be allowed or paid unless so authorized. If any officer of the city shall vote for any appropriation or for the payment or expenditures of any moneys, not authorized by or in pursuance of law, such officer shall be liable to a penalty of one hundred dollars, to be recovered by the city in a civil action and shall be guilty of a misdemeanor. If the common council or any city board shall pass any resolution authorizing or purporting to authorize any expenditure of money by the city for any purpose, exceeding the amount authorized by or in pursuance of law, to be expended in any year by the common council or any board, each officer voting for such resolution shall be personally liable for the amount thereof, and each officer present in the meeting at the passage of the resolution shall be deemed as voting for the resolution unless his dissent thereto is entered upon the minutes of the meeting at which such resolution was passed, but the city of Oneonta shall not be liable therefor, and neither the common council nor any city board or city officer shall pay any debt or expenditure so contracted or made. If any person, having been an officer of said city, whose term of office has expired, shall not, within five days after notification and request, deliver to his successor in office all property, papers and effects of every description in his possession or under his control belonging to the said city, or appertaining to such office, he shall be liable to a penalty of one hundred dollars, to be recovered by the city in a civil action, together with all damage caused by his neglect or refusal and he may also be proceeded against, as provided in section two hundred and forty-seven of the code of civil procedure and section fifty-seven of the penal code.

§ 33. **Notice of purchase for city account.**— Every officer, employee or board of said city who shall purchase or contract for the purchase of any material or supplies for said city shall within ten days therefrom file with the city clerk a statement of or bill for the same. And if he or any member of such board is in a position to receive, then or later, any dividend, or profit, directly or indirectly, on account of such sale or contract, he shall within ten days file with the clerk a statement of his interest therein;

and the clerk shall within the first week of the following month publish a summary of such statement, naming the officer or employee, the material or supply and the nature of his interest therein. Any failure to comply with the terms of this section shall constitute ground for removal of the delinquent officer.

§ 34. **When expenditures to be by contract to the lowest bidder.** — Whenever any expenditure to be made or incurred by the common council or any city board or any city officer in behalf of the city for work to be done, or materials or supplies to be furnished, except repairing and macadamizing or slagging of streets, and except building curbs and gutters of streets, shall exceed two hundred dollars, the city clerk shall advertise for and receive proposals therefor in such manner as the common council or as the board or officer charged with making such contract shall prescribe, and the contract therefor shall be let to the lowest responsible bidder, who will comply with the conditions prescribed for the materials to be furnished and who shall execute a bond to said city with one or more sureties, being freeholders, for the faithful performance of the contract. Each surety shall make an oath, in writing, that he is worth a sum double the contract price, over and above all debts and liabilities he owes or has incurred, and exclusive of property exempt from execution, but where the contract exceeds two thousand five hundred dollars, the amount in which the surety is required to justify may be made up by the justification of two or more sureties, each in a similar sum, but in that case a surety cannot justify in less sum than five thousand dollars; and, where two or more sureties are required to justify, the same person cannot so contribute to make up the sum for more than one of them. When the lowest bid is not satisfactory to the common council, board or officer charged with making the contract, they shall, if the common council consent thereto by resolution, have the right to reject it, and may discontinue or abandon the work or may direct the clerk to advertise for new proposals, or with the consent of the common council, such work may be done by the city or otherwise or materials purchased without public letting.

§ 35. **City officers authorized to administer oaths and take affidavits and acknowledgments.** — Each mayor, city clerk and city judge of the city shall have the same power and authority to administer oaths and take and certify affidavits and acknowledgments as a justice of the peace of towns in the county of Otsego.

§ 36. **General powers and duties of mayor.**— The mayor shall be the chief executive officer of the city and shall have and exercise all the powers conferred upon him by this act or by the general statutes of this state, not inconsistent with this act. It shall be his duty to see that the laws of this state and the ordinances and by-laws passed by the common council are faithfully executed within the city. He shall sign, on behalf of the city, all contracts made by it, and cause the seal of the city to be affixed thereto. He shall be the presiding officer of the common council and shall appoint all standing committees thereof. He shall have power and authority to call out and command the police and firemen of the city whenever, in his discretion, he shall deem it necessary, and such command shall be in all respects obeyed. Whenever necessary for the prevention or suppression of public disturbances, mobs or riots, it shall be his duty to take such action as is authorized by chapters three and four of title two, part two of the code of criminal procedure, section one hundred and sixty-two of the military code and section twenty-two of the general municipal law. It shall be his duty to exercise a constant supervision and control over the conduct of all city officers, and he shall have power and authority to examine, at all times, the books, vouchers and papers of any officer or employee of said city, and to take and hear testimony and proof in accordance with sections eight hundred and forty-two to eight hundred and sixty-nine of the code of civil procedure. He may designate from time to time, the place in said city where he will keep his office. It shall be the duty of the mayor to communicate to the common council as soon after his election as practicable and as often thereafter as he may deem expedient, a general statement of the affairs of the city in relation to its finances, government and improvement, with such recommendations as he may deem proper. The mayor of said city, in addition to such powers as may by law and this act be conferred upon him, shall have full power: (a) To regulate the weighing of coal to be delivered to any purchaser or consumer in said city. For such purpose he shall annually designate public scales, not to exceed three, conveniently located in said city, properly tested each year. (b) Any load or part of a load of coal purchased by or intended to be delivered to any such consumer must have accompanying it a certificate, over the signature of the person weighing said coal, stating the number of pounds avoir-

dupois contained in said load of coal, or in each of the several compartments into which said load is divided, which certificate must be delivered to the purchaser or consumer, or his agent, or some member of his family competent to receive it or in case no one is at the place of delivery at the time of delivery, it shall be left on top of the coal delivered. (c) At the time of the delivery of said coal and before it shall have left the highway any purchaser or consumer or citizen may have the same reweighed on any scale so designated, and which has been tested within one year prior thereto, upon paying the expense of such reweighing; which shall be at the rate of fifteen cents for each weighing. If the quantity of coal contained in any such load or in any of the compartments into which said load is divided, is less than that mentioned in the certificate accompanying said coal, the person weighing the same for the vendor or the person delivering the same shall, upon conviction, be guilty of a misdemeanor, punishable by a fine not to exceed ten dollars and costs for each offense; provided that in all cases thirty pounds to a ton shall be allowed for the variation in scales. (d) Any person or persons delivering said coal who shall refuse to comply with the request of a purchaser, consumer, or citizen to have the same reweighed, shall, upon conviction, be liable to a fine not to exceed ten dollars for each offense. (e) Any weigher of said coal who shall neglect or refuse to make, sign and forward with said coal such certificate of its weight shall, upon conviction, be liable to a fine not to exceed ten dollars for each offense.

§ 37. **General powers and duties of city chamberlain.**— The city chamberlain shall be the fiscal officer, collector and treasurer of the city, and shall perform such duties incident to his office as the common council may require. He shall keep an office at such place as the common council shall provide and designate, which shall be kept open each day in the year, except Sundays and legal holidays, from nine o'clock in the morning, until four o'clock in the afternoon, except between twelve and one, and during the months of January and October from seven till nine o'clock in the evening on Mondays and Saturdays, and at such other hours as the common council may, from time to time, direct. He shall keep separate accounts of the different funds of the city, and shall not pay out any money chargeable to any fund in excess of the amount standing on his books to the credit of such fund, and shall not knowingly pay money from any fund which is not

properly chargeable thereto. It shall be the duty of the city chamberlain to deposit to the credit of the city of Oneonta once in each day, all the moneys in his hands, except one hundred dollars or less, in such banking corporation or trust company as shall be designated by a majority of the common council at its first regular meeting during the month of January in each year, or as soon thereafter as may be, such designation to be made from such Oneonta banking corporations or trust companies as will pay the highest rate of interest for the ensuing year, on all daily balances standing to the credit of the city, interest to be credited to the city on the first of each month. Propositions for such deposits shall be made in writing, in a sealed envelope, addressed to the mayor or common council, and shall be opened at the first regular meeting of the common council after its organization each year. The banking corporation or trust company so designated shall give a bond to the city of Oneonta, with two or more sureties, and in such form and sufficiency and for such time as shall be approved by the common council as security for such deposit and interests; and when so deposited it shall be drawn only upon the check or warrant of the city chamberlain, in person, or, in case of his inability on account of sickness or otherwise, then by any other person appointed in writing by said chamberlain, or on an order of the common council, signed by the mayor and clerk thereof; such check or warrant shall specify for what purpose the amount therein named is to be paid. The city chamberlain shall, before the first meeting of the common council in each month, file with the city clerk a report showing in detail the total expenditures and receipts of city moneys during the next preceding calendar month, and a summary statement of the receipts and expenditures of city moneys during that portion of the current fiscal year expiring with the last day of such preceding month, and the balance at the end of such month standing to the credit of each of the city funds. Such statement shall be in such form as shall be prescribed, from time to time, by the common council. Before entering upon the duties of his office, and within thirty days after he shall have received official notice of his election, he shall execute and file an official bond with two or more sureties or some solvent surety company, in such penal sum as may be fixed by the common council, not less, however, than one-half the amount of money estimated as likely to be received by him for all purposes during the fiscal year, in accordance with

section sixteen of the statutory construction law and sections eleven, twelve and thirteen of the public officers' law; and for omission to do so, he shall be subject to the penalties and liabilities prescribed by section forty-two of the penal code and sections thirteen, fifteen and twenty of the public officers' law. The premiums upon such bond shall be paid by the city. Such bond shall be approved by the common council, a certificate by the city clerk of such approval shall be endorsed thereon, and the bond so endorsed shall be filed and recorded in said clerk's office, and such bond shall be a lien on all property of such chamberlain until the conditions of such bond, together with all costs and charges which may accrue upon the prosecution thereof, shall be fully satisfied, whereupon the common council shall, by resolution, declare that such bond is satisfied and a copy of such resolution, duly certified by the city clerk, and filed and recorded in his office shall operate to discharge the same and the lien thereof from record. It shall be the duty of the chamberlain, personally, to receive all state, county, city and local taxes and assessments which may be paid at such office, and to retain there, and not elsewhere, the possession of the warrants and assessment rolls which may, from time to time, be delivered to him by the clerk of the city. He shall enter, daily, in suitable books all sums of money received by him for taxes or otherwise, with the name of the person or corporation on whose account the same shall be paid, and shall, at the expiration of each month, exhibit the same in his office to the mayor and finance committee of the common council for inspection. He shall also enter in a column in the assessment rolls in his possession, opposite the names of the persons or corporations who shall pay their taxes or assessments, the fact of the payment, the amount thereof, and the date when paid. He shall also keep a record of all persons and their respective addresses, who may pay taxes for nonresidents of said city, and the residence of such nonresidents, so far as he can ascertain the same. The chamberlain shall be the custodian of all securities, obligations and other evidence of debt belonging to said city. He shall annually settle with the common council, and as much oftener as it may require, for all tax rolls and warrants issued to him and for all moneys received or collected by him for school and other purposes, and produce the proper vouchers of the board of education and other officers for all money paid upon the warrants, drafts or orders of

said officers. At the time of the annual settlement and immediately preceding the expiration of his term of office, or within such time after the annual settlement as the common council may fix, he shall pay to his successor in office all such moneys remaining in his hands and deliver to such successor in office all assessment rolls, books, papers and property belonging to said city or pertaining to the affairs of the city in connection with the duties of his office.

§ 38. **General powers and duties of city judge.**— The city judge shall be the judge of the city court which shall have both civil and criminal jurisdiction. He shall possess all the jurisdiction, power and authority in both civil and criminal proceedings as are or may be vested in justices of the peace of a town, together with such other powers and duties as are conferred upon him by this act, and shall be entitled to the same fees, for the use of the city, in civil proceedings as such justices of the peace.

§ 39. **General powers and duties of the city clerk.**— The city clerk of said city shall be ex-officio clerk of the common council, of the board of public works, of the board of fire commissioners, board of health and registrar of vital statistics of the said city. He shall perform such other duties incident to his office as may be required by the common council or by any such board. He shall keep the minutes of the meetings of the common council and of each board of which he is ex-officio clerk, and shall record in books to be kept for that purpose, all proceedings of the common council and of each such board and index the same. He shall keep an office at such place as the common council shall provide and designate. He shall have charge, custody and control of the corporate seal, books, papers, documents and official minutes of the city, except as otherwise provided by or in pursuance of the law. He shall keep a book, and alphabetically index and record therein all bonds of the city officers as well as all contractors' or other bonds running to the city or any of its officers, and note therein the date of filing each bond. He shall, upon request and payment of the fees therefor, make certified copies of all records and documents in his possession or under his control, as such clerk, or ex-officio clerk, and may affix the corporate seal of the city to any such certificate, and such seal shall be deemed to be his official seal, and any such certified copy shall be evidence as provided in section nine hundred and thirty-three of the code of civil procedure. He shall be entitled to demand and receive fees, for such certified copies, at the rate of ten cents per

folio, from each person other than a city officer, upon whose request any such certified copy is made and delivered. He shall keep an accurate account of all fees and moneys received by him as such clerk or ex-officio clerk, other than his salary, including fees received by him as registrar of vital statistics, and shall, on or before the tenth day of each month, pay over all such fees and moneys received by him during the month immediately preceding, to the city chamberlain, to the credit of the contingent fund, for which he shall take a receipt and file the same in his office. Such receipt shall, at all times, be subject to examination by the common council, or any member thereof. His office is hereby declared a town clerk's office for the purpose of depositing and filing therein all books and papers required by law to be filed in a town clerk's office, and he shall possess all the powers and discharge all the duties of a town clerk not inconsistent with this act. The mayor may appoint a deputy clerk, who, in the absence or inability to act of the clerk, shall perform the duties of clerk. The clerk shall be entitled to two weeks' vacation annually, and for good cause may be excused by the mayor for an additional ten days, without loss of pay. During such absence the deputy clerk shall be paid by the city two dollars per day. Any further service on the part of the deputy clerk shall be paid for by the clerk, and shall not constitute a claim against the city.

§ 40. **The city attorney.**— The city attorney shall be the sole official adviser of the common council and all the boards and other officials of the city, including the assessors. He shall when directed by the common council prosecute and defend all actions and proceedings by and against the city and every department thereof, and perform such other professional services relating to said city as the mayor or common council may direct. He shall when required prepare all legal papers, contracts, deeds and other instruments for the city and the different departments thereof. The city attorney shall, at the expiration of his term of office, hand and deliver to his successor in office, as soon as qualified, the record or register of all suits or proceedings in which the city or any of its departments may be a party and also all the papers on the part of the city therein, and also sign stipulations substituting such successor as attorney for the city to such suits or proceedings to the end that an order may be entered making such substitution. All costs in litigated cases,

wherein the city is successful, shall belong to the city, and when collected shall be paid to the chamberlain and credited to and form part of the general fund of the city.

§ 41. **General powers and duties of city engineer.**— He shall perform all the city engineering required by the common council or board of public works and by the other departments and the other officers of the city. He shall make all preliminary surveys for the opening, making, constructing, paving, macadamizing, repairing, grading and establishing the grade of all streets, side and crosswalks, gutters, sewers, sewer inlets and the measurement of all work done on the same or on other public places in the city, and prepare plans, profiles and specifications therefor, when necessary, or when required by the board of public works, and shall perform such other duties as may, from time to time, be required by the common council. He shall have no power to contract any liability or debt on the part of the city, except as authorized by the common council or board of public works. He shall keep in his office books and records of all surveys and maps of public places, streets, avenues and lanes, and the grade thereof and sidewalks, water mains, sewers, sewer inlets, with location and grade thereof. Such books and records shall be properly indexed, and shall be the property of the city, and transmitted with other matters pertaining to his office to his successor.

§ 42. **General powers and duties of city superintendent of public works.**— The superintendent of public works shall under the direction of the board of public works have the general supervision and direction of all public works within the jurisdiction of the board. He shall at each regular meeting of the board of public works present thereto a pay-roll in such form as the board of public works may prescribe, verified by his oath, setting forth the work done for the city under his charge since the last pay-roll, and specifying the name of each person employed, the time he labored, his wages, and the amount due him. Said pay-rolls when audited shall be paid from the proper fund of said city, on account of which said work shall be performed or said expenses incurred.

§ 43. **The aldermen.**— It shall be the duty of every alderman to attend the regular and special meetings of the common council; to act upon committees when thereunto appointed by the mayor or common council; to report to the mayor all subordinate officers who are guilty of any official misconduct or neglect of duty; to aid in maintaining peace and good order in the city and to per-

form or assist in performing all such duties as are by this act enjoined upon the aldermen of said city separately or upon the common council thereof and to this end he may arrest or cause to be arrested any person committing a misdemeanor or felony in his presence. The aldermen of each ward shall be fence viewers and shall possess all the powers and authority, in respect to division fences or walls in their ward which are given by law to fence viewers of towns with respect to division fences and shall be entitled to receive the same fees as fence viewers of towns.

§ 44. **The constables.**— The constables of said city shall have the same powers, duties and jurisdiction, and be subject to the same liabilities as if the city of Oneonta were a town in the county of Otsego and they were constables thereof, except that they shall not execute any criminal process, or exercise any authority or power in any criminal actions or proceedings, or special proceedings of a criminal nature for or on account of any offense committed or charged to have been committed within said city.

§ 45. **The assessors.**— The city assessors shall perform all the duties required of them by this act in relation to the assessment of property in said city as well as for the purpose of imposing taxes as levied by the board of supervisors of Otsego county as those levied by the common council of said city, and to that end they shall perform all the duties and possess all the powers and authority of town assessors, except as modified by this act. They shall fix and establish all values and assessments prior to the first day of August of each year, and prior to the completion, filing and review thereof, and shall meet together from time to time for such purpose. In case said assessors are unable at any time to agree upon the assessment of any item of property, or any other official matter before them, the mayor of said city shall determine the same and for that purpose shall have all the authority of an assessor of said city.

§ 46. **Powers and duties of supervisors.**— The supervisors of the city of Oneonta shall have the same powers and duties as supervisors in the towns of Otsego county and shall be members of the board of supervisors of the county of Otsego. They shall receive the same compensation allowed, by law, in the same manner as supervisors of towns, except fees for copying assessment rolls and extending taxes, which last mentioned fees shall be paid to the city clerk for the use of the city. The supervisors elected, appointed or qualified under this act shall be recognized by the

board of supervisors of Otsego county and be allowed to take their seats as members of said board and participate in all the deliberations and proceedings of said board during their terms of office. Said city shall be regarded as a town of Otsego county for the purpose specified in title three, chapter ten, article second of the code of civil procedure, respecting the selection, drawing and procuring the allowance of trial jurors. The supervisors and the city clerk and assessors of said city shall perform the duties prescribed in said article. A duplicate of each list of jurors selected by them respectively shall be filed in the office of the clerk of said city, which shall be deemed a town clerk's office for that purpose. The supervisors and the clerk and assessors of said city shall meet in the clerk's office at the time provided by law and proceed to discharge the duties imposed upon them by the code of civil procedure as aforesaid, and by this act; and the list made by them shall constitute the list of persons to serve as trial jurors for the ensuing three years. The supervisors elected under this act and the clerk and assessors of said city shall meet every third year thereafter for the same purpose, and make and file lists so required of them. The clerk shall furnish to the city judge certified copies of all such lists, and from the names of all such jurors in the city shall be drawn the trial jurors in actions and proceedings in the city court and before the city judge. Until the city judge shall be furnished with such list he shall use in drawing jurors in his court or before him the last list furnished to the justice of the peace of the town of Oneonta but shall set aside any juror so drawn who is not a resident of the city of Oneonta.

§ 47. **Powers and duties of other city officers.**— The powers and duties of all other city officers shall be such as are hereafter prescribed in this act, or when not so prescribed as provided by the existing general laws applicable to such officers.

§ 48. **Payments of money must be made from and into the general fund when not otherwise provided.**— Other than as herein provided, all moneys belonging to said city shall be paid to the chamberlain thereof and deposited to the credit of the general city fund; and all payments of money made by said city or by any board or officer thereof, when authorized by or in pursuance of law, and the fund from which such payment is not otherwise designated, shall be made from the general city fund, but nothing in this section shall be construed as limiting, modifying or repealing any provision of the general law.

TITLE IV.

THE COMMON COUNCIL.

Section 50. Organization and procedure of the common council.
51. Mayor's approval or veto.
52. Time of taking effect of resolutions and ordinances.
53. Maximum amount of annual city tax levy.
54. Annual estimates and reports by boards and officers.
55. Financial reports.
56. Subdivision of funds.
57. General legislative powers.
58. Improvements and removal of nuisances at expense of owners.
59. Control of finances and property; ordinances, rules and regulations of the common council.
60. Issuing bonds for judgments.
61. Elections for extraordinary expenses.
62. Borrowing money.
63. Violation of ordinances.
64. Licensing occupations.
65. Official newspapers.
66. Rules and regulations for transaction of city business.
67. Street lighting and water supply.

§ 50. **Organization and procedure of the common council.**— The mayor and aldermen of said city shall constitute the common council thereof. At all meetings of the common council each alderman present shall have one vote. At the first meeting of the common council in each official year or as soon thereafter as practicable the common council shall choose one of the aldermen to be temporary president, who shall during such official year be the presiding officer of the common council in the absence of the mayor, and, while the mayor is absent from the city or unable to perform his duties, said presiding officer shall be acting mayor, and have all the powers and duties, and be subject to all the obligations and liabilities of the mayor. The acting mayor of the common council shall not lose his vote as alderman by reason of his acting as presiding officer of the common council at any time, but when he shall vote as alderman, he shall have no casting vote on a tie. The common council shall hold regular or stated

meetings on the first and third Tuesday evening in each month in the common council rooms, and at such other times as they shall by resolution designate. The mayor, or, in his absence, the acting mayor, or any three aldermen may call special meetings by notice in writing, served personally upon the other members of the council, or left at their usual place of abode. The common council shall determine the rules of its own proceedings. The attendance of absent members may be compelled by the common council, or by a meeting thereof in which less than a quorum is present, by the entry of a resolution and order in the minutes, directing the chief of police or any police officer of the city to arrest such absent member and fetch him before the common council at the meeting at which such member was absent or the next, or some subsequent meeting of the common council, to answer for his neglect. A majority of the common council, including the mayor as a member thereof, shall be a quorum for the transaction of business, but a smaller number may adjourn from time to time. A majority of the aldermen present and voting at any meeting of the common council at which a quorum shall be present shall be sufficient to pass any resolution or ordinance, except as otherwise in this act provided, and except that no resolution authorizing or involving the expenditure of money or collection of money by a tax or assessment shall pass unless it receive the assent of a majority of all the aldermen in office, except as otherwise in this act provided. The ayes and noes, if called for by any member of the common council, shall be recorded on all resolutions and appointments. All meetings of the common council shall be public except when the public interest requires secrecy; but no vote shall be taken in secret or executive session.

§ 51. **Mayor's approval or veto.**— Except as provided in section fifty-two of this act, every resolution or ordinance of the common council, except rules for its own government and resolutions for the appointment of officers shall, before it takes effect, be presented, duly certified by the clerk to the mayor. If the mayor approve thereof, he shall sign it within ten days after receipt thereof by him and file it so signed with the city clerk. If the mayor does not approve it, he shall, within ten days after receipt thereof, by him, return it to the city clerk with his objections thereto in writing, and a statement that he does not approve thereof, and it shall have no force or effect unless the

common council shall thereafter reconsider it and pass it over the mayor's veto by the concurring vote of at least two-thirds of the total number of aldermen in office, which vote shall be taken by ayes and noes, and entered on the minutes together with the objections of the mayor. If any such resolution or ordinance so presented to the mayor shall not be returned by him to the city clerk within ten days after the receipt thereof by the mayor, it shall, at the expiration of such ten days, have the same force and effect as if it had been approved by him and filed with the city clerk. If any such resolution contains one or more items appropriating money, the mayor may sign it with a written statement appended thereto that he objects to one or more such items and each item so objected to shall have no force or effect unless such items be reconsidered separately by the common council and passed over the mayor's veto in the same manner as a resolution wholly vetoed.

§ 52. **Time of taking effect of resolutions and ordinances.**— Every ordinance of the common council, before it shall take effect, must be published at least once after its final passage as provided in section fifty-one of this act, in the official newspapers of the city. Every such ordinance may specify at what time after such publication it shall take effect, and if no time be specified it shall, except as otherwise herein provided, take effect immediately upon such publication. Resolutions may specify at what time after their final passage as aforesaid they shall take effect, and if no such time be specified they shall take effect immediately. No franchise shall be granted until the same has been laid over for consideration until at least the ensuing regular meeting after a written petition therefor has been presented, and after the consideration thereof at a time specified in a notice published at least one week in advance at the expense of the applicant and then only in the judgment and discretion of the common council and upon such conditions as may be imposed by it and as are required by law, and in no case shall a franchise be granted except an adequate bond be given or a sufficient deposit of money be made for the faithful performance of all the conditions thereof. No telephone system shall hereafter be constructed in or through the city of Oneonta unless a regular franchise shall be first granted therefor by said city. Any franchise granted by said city shall not become operative until after the expiration of fifteen days after its official publication at the ex-

pense of the grantee. If, within the said period of fifteen days, a petition be addressed to the common council and filed with the city clerk signed by at least twenty-five per centum of the electors of said city who are qualified to vote upon any extraordinary expenditure as provided in section seventeen of this act, asking that the question of granting such franchise be submitted to the qualified electors of said city, the common council shall, within thirty days from the filing of such petition, call an election to submit such question to the electors of said city. Such franchise shall be suspended until the result of said election be declared. If a majority of the electors voting thereon approve said franchise it shall become operative, otherwise it shall be null and void. Upon the written petition of not less than twenty-five per centum of the electors of said city who are qualified to vote upon extraordinary expenditures, addressed to the common council and filed with the city clerk, requesting the granting of any particular franchise or the passage of any resolution or ordinance in said petition specifically set forth, the common council shall, at the second regular meeting after the filing of said petition, proceed to consider the same and shall before the adjournment of said meeting pass its final vote thereon. If said franchise, ordinance or resolution be disapproved and a like number of said electors, within fifteen days thereafter, file with the city clerk a petition to the common council asking that said franchise, ordinance or resolution be submitted to the qualified electors of said city, the common council shall within thirty days thereafter submit the same as petitioned for, and if a majority of said electors, voting thereon, approve the same it shall become operative, the same as if duly granted or passed by the common council and approved by the mayor, otherwise it shall be null and void.

§ 53. **Maximum amount of annual city tax levy.**— The common council may raise by tax upon the real and personal property assessable in the city each year certain amounts, which shall be estimated and designated each year for the following purposes:

1. For the payment of the expenses of the police department, including the salary of the city judge and the salaries of the officers of said department to be designated the police fund.

2. For paving, repairing and keeping in order the streets, crosswalks, curbs, gutters, lanes, public places and grounds of said city, for defraying the expenses of constructing, repairing and keeping in order of sewers, for the service of city engineer,

the superintendent of public works and his assistants and employees, the erection and maintenance of bridges and culverts and other expenses relating to streets and highways, to be designated the public works fund.

3. A sum necessary for defraying the expenses of supplying and keeping in good condition and repair the engine rooms, houses, hose carts, hook and ladder carts, fire alarm telegraph and other apparatus deemed necessary for the extinguishment of fires, and for paying the salaries and wages of officers and employees of the fire department, to be designated the fire fund.

4. A sum necessary for the payment of the expenses of department of charities, including the salary of the commissioner of charities, to be designated the poor fund.

5. A sum necessary for the lighting of the streets, public grounds and public buildings of the city and expenses of maintaining all necessary apparatus and fixtures connected therewith, to be designated the lighting fund.

6. A sum necessary for supplying water to the public buildings of the city, and water for the extinguishment of fire, to be designated the water fund.

7. A sum necessary for defraying general and contingent expenses, for the payment of all salaries and other expenses not otherwise provided for, to be designated as the general city fund. The aggregate for the annual tax levy for all purposes in this section above provided shall not exceed the rate of one per centum of the assessed valuation of the real and personal property liable to taxation in said city, as the same shall appear from the assessment-roll of said city for the current year. In addition to the amounts which shall be included in the annual tax levy for the foregoing purposes there shall be levied such an amount as shall be necessary to meet the principal and interest on the bonded indebtedness of the city, not including school bonds falling due during the fiscal year for which the tax is levied, and to meet all indebtedness remaining unpaid on all judgments against the city, which amount shall be known as the public debt fund.

8. A sum necessary for the purpose and use of the board of education, including the payment of principal and interest upon the bonds heretofore or hereafter issued for school purposes, falling due during the fiscal year for which the tax is levied, to be designated the school fund.

9. A sum necessary for the purposes and uses of the department of public libraries to be designated the library fund.

10. Such further sums as shall have been voted at a regular city election, or at a special city election called for the purpose, and also for such other sums as the common council is authorized to expend for purposes specified in this act.

§ 54. **Annual report and estimates by boards and officers.**— In the month of July of each year the board of education and the library board shall estimate in detail the expenses and income of their respective departments for the next fiscal year, and shall certify such estimate to the common council which shall in the month of August levy a tax in accordance with section one hundred and eighty-five of this act for said purposes. Between the first and last days of November of each year the board of public works, the board of fire commissioners, the board of police commissioners, the board of health and the commissioner of charities shall make and certify like estimates. The police board shall also include in its report an estimate of the amount which will probably be paid into the city treasury during the next fiscal year from excise taxes. The city judge shall present an estimate of the amount of fines, fees, costs and penalties that, in his judgment, will probably be received by the city judge during the next fiscal year. The city clerk shall also make a detailed statement by items of the expenses of the city as estimated by him for the next fiscal year. The city clerk in his report shall also make a statement in detail of all judgments against the city then remaining, and an itemized statement of the principal and interest of all bonded and other indebtedness of the city that will fall due during the next fiscal year. The chamberlain shall present a statement to said common council of all unpaid taxes and local assessments theretofore assessed and remaining unpaid. The city chamberlain in his report shall also make a statement in detail of the amount of unpaid taxes and local assessments theretofore assessed and remaining unpaid and the amount which, in his judgment, will probably be received by the city therefrom during the next fiscal year, all expenditures made or incurred by the city and chargeable to the property-owners or other persons and remaining unpaid and the amount which, in his judgment, will probably be received by the city during the next fiscal year. In the month of December the common council shall revise such estimates, other than those of the board of education and the

library board, and determine the entire amount necessary to be raised to defray the expense of the city, not including schools and library for the ensuing fiscal year. Said common council may by a vote of two-thirds of its members approve or reduce any of the estimates of the various boards aforesaid, except that of the board of education, but shall not increase the same, and shall immediately levy the aggregate amount taxed, ascertained and determined together with any special tax which shall have been voted to be raised with the annual tax levy.

§ 55. **Financial reports.**— Each of the officers and boards specified in the last section shall, at the close of the fiscal year, make a written report to the common council of all expenditures made or incurred by said officers or said board during said year, showing separately and by items the amount expended from each fund which may be drawn on by such board, and the balance standing to the credit of each such fund. The fiscal year of the board of education shall close July thirty-first. All officers and boards receiving any money other than that raised by taxation shall, in such report, make an itemized statement of the same received by them, specifying the date of such receipt, the amount thereof, and the person by whom the same was paid.

§ 56. **Subdivision of funds.**— The common council shall subdivide the funds of the city as established by this act, and the city chamberlain shall restate his accounts of the funds so subdivided accordingly.

§ 57. **The general legislative powers.**— The general legislative powers of said city for all proper municipal purposes, except such power as may be vested in other city boards or officers, shall be vested in the common council. The common council shall furnish the mayor, clerk, city judge, chamberlain and chief of police with necessary office room, office furniture, books, stationery, heat and light; shall keep in proper repair the public buildings of the city; may authorize any city officer to inspect any place or places to ascertain whether the same are in safe condition, and if not, may require the same to be made so; may require any officer of the city to furnish reports, information or estimates whenever deemed proper by the council; may employ a poundkeeper, a sealer of weights and measures, and such other employees of the city as may be necessary to execute the work which the common council is authorized and required to cause to be executed and may fix their compensation.

§ 58. **Improvements and removal of nuisances at expense of owner.**— The common council shall have the power to compel the owner or occupant of any building or wall which it may deem to be in a dangerous or unsafe condition by reason or on account of fire or otherwise to render the same safe or to take down and remove the same, and in case of his neglect so to do, to cause it to be taken down or removed at the expense of the owner or occupant; to direct the owner or owners of any building used for public entertainments or other public purposes to provide the same with suitable and sufficient fire escapes in the manner provided by the common council and in case of the failure or neglect of the owners so to do, to close the same or to cause such work to be done at the expense of the owner; to authorize any city officer or any person designated by the common council to inspect any place or places to ascertain whether the same are in safe condition, and if not, to require the same to be made safe, and if the owner thereof shall neglect or refuse so to do, to cause the same to be made safe at the expense of the owner.

§ 59. **Control of finances and property; ordinances, rules and regulations of the common council.**— The common council shall exercise all the corporate powers conferred by this act, other than as provided by law or this act, shall have the management and control of the finances and of all the property, real and personal, belonging to said corporation, other than as provided in this act, and shall have power, within said city, to enact ordinances, not inconsistent with law, for the government of the city and the management of its business, for the preservation of good order, peace and health, for the safety and welfare of its inhabitants and the protection and security of their property.

Also to prescribe or define such powers and duties of officers of said city as are not specified in this act and are not inconsistent therewith.

Also to provide places for holding elections. To call special meetings of the inhabitants of said city whenever in its judgment the public interests require the same, and to carry into effect all lawful resolutions adopted at any special elections.

§ 60. **Issuing bonds for judgments.**— The common council may, at any time, issue bonds for the payment of a judgment that heretofore has been recovered against the village of Oneonta, or that may be recovered against the city after its creation. The issuance of such bonds shall in all respects be subject to the same

conditions and limitations as are the issuance of other city bonds elsewhere provided for in this act.

§ 61. **Elections for extraordinary expenses.**— Whenever the common council shall resolve by the affirmative vote of a majority of its members that an extraordinary expenditure ought, for the benefit of the city, to be made, for any specific purpose set forth in the resolution, it shall make an estimate of the sum necessary therefor and for all such purposes, if there be more than one, and publish such resolution and estimate at least three times, once in each week, in the official newspapers, together with a notice that at a time and place or places therein specified a special election of the taxpayers of the city will be held to decide whether the amount of such expenditure shall be raised by a tax. All provisions of law prescribing the duties of inspectors of election and their powers with reference to preserving order at elections and false swearing and fraudulent voting thereat shall, so far as applicable, apply to the special elections held hereunder. The election shall be by ballot, and each ballot shall contain a brief statement of each purpose for which such expenditure is required and the amount thereof, and be in the form required by the election law for voting upon questions submitted. The inspectors shall, at the time and place designated as aforesaid, sit without intermission, from nine o'clock in the morning until four o'clock in the afternoon, to receive the ballots cast at such special election and shall deposit the same in a suitable ballot-box to be provided by the city. But no person shall be entitled to vote at such an election unless he shall be at the time assessed for property within said city held in his own or his wife's name. The inspectors shall canvass the votes received immediately after closing the polls, and immediately make a certificate, signed by them or two of them, stating the whole number of ballots voted at such election, the whole number for each special tax, and the whole number against each special tax, and deliver the same forthwith to the city clerk. The city clerk shall deliver the same to the common council at its next meeting, and it shall cause the result of the said election thus certified to be entered on the minutes. If the sum or sums of money thus appropriated shall, with the other annual city taxes, be not in excess of one and a half per centum of the assessed valuation of the real and personal property of the said city, the common council shall cause the sum or sums of money thus voted to be assessed,

levied and raised with and in addition to other taxes in and upon the next assessment-roll. But if the sum or sums of money thus voted shall, with the other annual city taxes, be in excess of one and a half per centum of the assessed valuation of the real and personal property of the said city, the common council shall issue bonds or other evidence of indebtedness in such form as it may prescribe for the whole amount so voted or any part thereof, at an annual rate of interest not exceeding four and one-half per centum and shall sell such bonds in such manner as it may deem best, at not less than par value, and shall provide for the payment of such bonds in such sums and at such times as it may deem for the best interests of the city. No more than one such election in the city shall be held in any one year, except by the unanimous vote of the common council. After such special tax or taxes shall have been authorized as herein provided, the common council may proceed to authorize the expenditure of the amount thereof for the purpose or purposes specified in its published statement aforesaid and sanctioned by such election. The common council may borrow, if necessary, the amount so voted in anticipation of the collection of said tax, and the amount so raised or borrowed shall be expended only for the purpose or purposes for which the special tax was voted, and shall be repaid within one year from the proceeds of the tax.

§ 62. **Borrowing money.**— The common council shall have the power to borrow money with which to pay the debts and expenses of the city within two-thirds of the estimates provided for in this section and section one hundred and fifty-seven of this act in anticipation of the receipt of the city taxes and revenues, applicable to such purposes, and the common council may provide for the issuing of certificates of indebtedness, to be signed by the mayor and countersigned by the city chamberlain for such purposes, and such certificates shall be paid out of the moneys received as such taxes for the then current year and revenues applicable to such purposes.

§ 63. **Violation of ordinances.**— Any ordinance enacted by the common council may provide that any person violating such ordinance shall be guilty of a misdemeanor or of disorderly conduct or shall be liable to pay to the city a sum therein named as a penalty, not exceeding one hundred dollars, to be recovered in a civil action. If no provision be made in any ordinance as to the effect of a violation thereof, every violation thereof shall

be a misdemeanor. If violation of any such ordinance be made a misdemeanor or disorderly conduct by or in pursuance of this act and be also made a misdemeanor or disorderly conduct by any other law, but one conviction shall be had on account of such conduct. If the violation of any ordinance constitute either a misdemeanor or disorderly conduct, and also render a person violating such ordinance liable to a penalty in a civil action, the conviction of either disorderly conduct or misdemeanor on account of such conduct shall be a bar to the recovery of the penalty in a civil action, and the recovery and payment of a judgment for the penalty in a civil action shall be a bar to the prosecution for either the misdemeanor or the disorderly conduct on account of such violation. If the conduct shall constitute a violation of an ordinance enacted by the common council of the city in pursuance of this act and also a violation of an ordinance of the board of health of the city enacted in pursuance of law, such ordinance of the board of health shall so long as it remains in force and effect supersede and nullify such ordinance of the common council. The city may maintain an action to restrain by injunction a violation of any ordinance of the common council or board of health, notwithstanding that such ordinance may provide a penalty for such violation.

§ 64. **Licensing occupations.**— If an ordinance of the city prohibit the carrying on of any occupation without a license therefor, the common council may fix the fee for such license and may prescribe the minimum and maximum limits to the fee which may be charged therefor in the discretion of the mayor. All applications for such licenses shall be made to the mayor. The mayor may grant or refuse any such license in his discretion. If the mayor determine to grant such license, he shall issue or order the city clerk to issue such license upon the production of a receipt from the city chamberlain for the amount specified in such order and receipt, and he shall issue such license accordingly. The city chamberlain shall credit all fees so received by him to the general city fund. The clerk shall keep in his office a record of each license, the person to whom issued and the fee paid therefor.

§ 65. **Official newspapers.**— The common council shall, at its first meeting in each official year, or as soon thereafter as practicable, fix and determine the legal fee per folio or otherwise, at which all notices, by-laws, rules, ordinances and regulations and

such reports and other matters as the common council may direct are to be published in the official newspapers of the city and thereupon shall designate one or more newspapers published in said city in which papers all such matters as aforesaid specified shall be published at the fees so prescribed. The newspapers so designated shall be the official newspapers of the city for the ensuing official year for the purposes aforesaid and until the next annual designation, provided said newspapers shall agree, with said common council, to make the aforesaid publications at the fees prescribed by the common council. The affidavit of the publisher or of the bookkeeper or foreman in charge of the publication of said newspaper shall be filed with the city clerk to cover each publication and the same or a certified copy thereof shall be presumptive evidence of the fact of such publication.

§ 66. **Rules and regulations for the transaction of city business.**— The common council shall have power to make rules, regulations and adopt methods for the convenient transaction of the business of the city by the several boards, departments and officers thereof, not inconsistent with the duties and powers given such boards, departments and officers by this act and general laws.

§ 67. **Street lighting and water supply.**— The city of Oneonta, by and through its common council, may, from time to time, make a contract and contracts with any person or persons, firm or firms, corporation or corporations, for supply of water for fire purposes, public buildings, parks, fountains and other public uses and for lighting the streets, public parks, public buildings and places within said city for times and terms not exceeding five years each, provided, however, that the total annual expenditure thereunder for water or for light shall not exceed in any one year for each of such purposes two and one-half mills for each dollar of assessed valuation of said city, according to the then last preceding assessment-roll thereof.

TITLE V.

DEPARTMENT OF PUBLIC WORKS, LOCAL IMPROVEMENTS, STREETS, HIGHWAYS, CONSTRUCTION OF SEWERS, PAVING OF STREETS, AND CONSTRUCTION OF SIDEWALKS.

Section 71. Organization.
72. Powers and duties of the board.
73. Duties of superintendent of public works.

Section 74. Opening, altering and extending streets, or public grounds; assessment of benefits and payment.
75. Right to construct and maintain sewers.
76. Payment of costs of sewers.
77. Acquirement of necessary lands.
78. Paving, repaving and macadamizing.
79. Establishing of grade, et cetera.
80. Change of grade of streets, et cetera.
81. Sidewalks, curbs and gutters.
82. Cleaning sidewalks and gutters of snow and ice.
83. Street cleaning and repairing.
84. Work may be done by contract.
85. Correction of errors.
86. Taxes and assessments, under this title, lien of.

§ 71. **Organization.**— The members of the board of public works appointed as hereinbefore provided shall constitute the board of public works. They shall between the fifteenth and thirtieth days of January in each year organize by the election of one of their members as president for the ensuing year. At any meeting of the board two shall constitute a quorum but no action of the board shall be taken, except by the concurring votes of two members, and no appointee shall be selected or removed except by the concurring votes of three members.

§ 72. **Powers and duties of board.**— The board of public works shall be commissioners of highways in and for the said city, and shall have all the powers and perform all the duties of commissioners of highways in towns, other than as provided in this act. The said board is vested with the charge, management, control and maintenance of all bridges, streets, sidewalks, public places and public squares within the city, of the sewers and the extensions thereof, of all buildings and structures appurtenant thereto, and of all machinery, tools, appliances and materials used in connection therewith. The board of public works shall have power:

1. To appoint an engineer and superintendent of public works, which engineer and superintendent shall be responsible to the board of public works.

2. To employ all servants, including clerks and laborers, and fix the compensation of all servants so employed by them.

3. To fix the time for its regular meetings, to provide for the calling of special meetings and to make rules and regulations

for its own government, and for the government of the superintendent of public works.

4. To make all contracts relating to construction, paving and repairs of the streets and sidewalks, public places, and public squares, parks and sewers, and the cleaning of the streets, sprinkling and the removal of dirt therefrom, the grading, paving, and repaving and macadamizing and remacadamizing of all streets, public places and public squares, and laying and extending of sewers and the provision of all materials, machinery, implements and utensils necessary therefor, and to annually expend for such sewer extension as aforesaid such sum not exceeding fifteen hundred dollars, as it may decide necessary, the same to be part of the amount annually raised by taxation by the common council.

5. To lay out, make, open, grade, level, regulate, pave, macadamize, plank, gravel, clean, repair and improve highways, streets, lanes, alleys, public grounds, parks, sidewalks, sewers, gutters, drains, aqueducts, reservoirs, crosswalks, and alter, amend, widen, straighten and discontinue the same, to establish grades and levels therefor, and alter the same through any lands, buildings or enclosures in said city.

6. To acquire any existing system of water, gas or electric light works supplying the public within said city or to establish another system of either, when so authorized by the electors of said city, who are qualified as provided in section sixty-one of this act, by a majority of the votes cast. The procedure shall be the same, so far as applicable, as that specified in the general village law relating to the acquisition of water works by a board of water commissioners or gas or electric light works by a board of light commissioners.

7. To cause to be made all necessary surveys, maps and profiles relating to any work within its jurisdiction.

§ 73. **Duties of superintendent of public works.**— He shall be the executive officer of the board of public works and shall, under its direction, have the general supervision and direction of all public works within the jurisdiction of the board. He shall have the supervision and direction of laying all sewer pipes and conduits from private dwellings or other places and shall have the supervision and direction of laying any connecting or lateral pipes and keeping the same in repair; and the expense of laying such connecting lateral pipe or conduit shall be paid by the owner or occupant of the property. Such connecting or lateral pipe or

conduit shall not be laid and connected until a permit therefor shall be obtained from the board of public works and all such connecting or lateral pipes or conduits and the fixtures thereto shall be constructed under and according to the direction of the superintendent.

§74. **Opening, altering or extending streets or public grounds and assessments of benefits and payment.**— Whenever the board of public works shall intend to lay out, alter, widen, extend, contract or discontinue any street, lane, alley, highway or public grounds in said city, and the lands of any person or corporation, or any right or easement therein shall be necessary for such purpose; and whenever the board of public works shall intend to acquire lands, rights or easements therein for any purpose mentioned in this act, it shall cause the same to be surveyed and monuments placed showing the line thereof, and a map to be made of the same which shall be filed in the city clerk's office, showing upon such map the lots, tracts and parcels of land and rights or easements therein, that are deemed necessary to be taken, and the commencement, course and termination of the street, lane, alley, highway or park proposed to be laid out, widened, extended or altered or other work or improvement proposed to be made in or through the land so to be taken. And for that purpose the board of public works and those acting under its direction shall have power to enter upon any grounds in said city. The board of public works, subject to the approval of the common council, shall then declare by resolution its intention to take and appropriate the said property for the proposed improvement, and thereafter it may, subject to the provisions of this act, purchase of the owner or owners thereof the land or right or easement therein deemed necessary, and make him or them such compensation as it shall judge reasonable upon receiving from such owners or owner a conveyance thereof to the city. In case the board of public works is unable to agree with the owner or owners for the purchase of any real estate or land or right or easement therein required for the purpose aforesaid, it shall acquire the same by condemnation proceedings under the provisions of the condemnation law of this state, chapter twenty-three of the code of civil procedure, and amendments thereto.

2. No one shall alter the condition of any part of said land, except to plant and harvest crops thereon, after such map is so

filed while such proceedings are pending, and a violation of this provision shall constitute a misdemeanor. After such damages shall have been ascertained and determined, said common council shall declare a district of assessment therefor, and shall then direct the city assessors to assess the amount awarded for damages, with the commissioners' fees, specifying the aggregate amount of the same, upon the property within such district of assessment. The assessors shall proceed to assess such amount upon the property benefited by such improvement in a just and equitable manner, and as near as may be, in proportion to the benefits received; such assessment shall be made in the same manner as other local assessments, except that such assessors shall direct such part of said expenses to be assessed upon the city, and such part locally, as they shall deem just. When the assessment roll shall be filed, the assessment may be appealed from in the same manner and the common council shall possess the same powers in reference thereto and proceed in the same manner as on appeals from other local assessments.

3. Within three months after the final determination of all proceedings in which any award shall have been made, and before taking possession of the property, the common council shall cause to be paid or tendered to the respective owners the amount awarded to each, respectively, less any sum which shall have been assessed against them for any benefits on account of such improvement. In case any such owner shall refuse the same, or be unknown or nonresident of the city, or for any reason be incapacitated from receiving the amount, or the right thereto be disputed or doubtful, the common council may make payment of the portion to the county treasurer of the county of Otsego and file a statement of facts and circumstances in each case, and a transcript of the report of the commissioners relating to the ascertainment of the amount so paid in, with the clerk of Otsego county, and said clerk shall make a report to the supreme court, at its first term held in the county, of the amount thus deposited, accompanied with the statement and transcript aforesaid; and the supreme court shall have authority and it shall be its duty, at such term of court, to order the investment of such money or the payment thereof on the ascertainment of the person entitled thereto. Upon such payment or tender, or payment to the clerk being fully made, the fee of the land shall be vested in the city.

§ 75. **Rights to construct and maintain sewers.**— The board of public works of the city of Oneonta, by resolution or resolutions duly adopted by that board, may at any time or times, provided the common council of said city by resolution concur therein, decide that the public sewers of said city shall be built and extended in and along any street or streets of said city, to be therein specified, pursuant to and in accordance with the sewer plans of said city, duly adopted, and approved by the state board of health, and on file in the clerk's office of said city. And thereupon said board of public works may build and construct the same by its own employees or by contract therefor duly advertised and let to the lowest bidder in all things as provided in section thirty-four of the charter of said city.

§ 76. **Payment of costs of sewers.**— Upon the completion of such sewer, or extension thereof, it shall be the duty of the board of public works to certify to the common council of said city the total cost and expense thereof, including all labor and materials therefor, cost of engineering, printing and all other necessary expenses connected therewith, or incidental thereto, including all interest on such sums of money as have been borrowed for such purpose, who shall thereupon issue bonds therefor and deliver the same to the chamberlain of said city for sale, said bonds to bear interest at not more than four and one-half per centum per annum, interest payable semi-annually, and be and become due by their terms not more than twenty years from their date of issue, and be sold at public or competitive sale to the person or persons offering the highest premium therefor, but at not less than par and accrued interest, and when so issued each of said bonds shall contain a recital that they are issued in accordance with this act, and such recital shall be conclusive evidence in any court of the validity thereof, and of the regularity of their issue. The total issue of such additional bonds for the extension of the public sewers of said city, as herein in this section provided, shall not exceed the sum of twenty-five thousand dollars. Any premium received on a sale or sales thereof, and also any premium received on the refunding of any and all sewer bonds of said city, being bonds of said city issued for sewer construction, shall be placed to the credit of the board of public works of said city of Oneonta, to be used by said board in building extensions to said sewer system of said city, or in paying and retiring any outstanding sewer bonds of said city. The board

of public works of said city, for the purposes herein specified, may at any time after said board has determined to make such sewer extension or extensions, by resolution direct and authorize the chamberlain of said city to borrow such sums of money therefor as said board shall determine necessary, prior to the issuing of bonds therefor by the common council as above provided and thereupon the chamberlain of said city shall borrow the same, and said city shall be obligated therefor, and shall repay the same, with interest thereon, out of the avails of the sale of said bonds therefor as above provided.

§ 77. **Acquirements of necessary lands.**— The board of public works shall have power to acquire for and in the name of the city, by agreement or appraisal, in such manner as heretofore provided, and also in such manner as is authorized by the condemnation law of this state, code of civil procedure, title one, chapter twenty-three, sections thirty-three hundred and fifty-seven to thirty-three hundred and eighty-four, any lands, easements, privileges, rights and estate necessary for the construction and maintenance of sewers, and may also enter upon any lands or waters for the purpose of making the necessary surveys, provided that, in all cases involving any expenditure of money, it shall have first submitted to the common council its estimate of the cost of such real estate and that the common council shall have approved the same and authorized the expenditures proposed, or that the same shall have been approved by the taxpayers at a special election. And on acquiring the same either by agreement or appraisal, or by condemnation proceedings, as hereinbefore provided, the said city of Oneonta shall be liable to pay therefor said agreed price, or appraisal value thereof.

§ 78. **Paving, repaving or macadamizing.**— If the board of public works shall of its motion decide that any street, section of a street, place or square ought to be paved, repaved or macadamized and the owners of more than one-half of the total feet front, or more than one-half of the bona fide owners of the property abutting upon the street or section of a street upon which the improvement is to be made give consent thereto in writing, or if in place of said consents the common council shall by resolution vote unanimously to concur with the board of public works that such improvement is expedient and necessary, the said board shall publish once in each week for at least two successive weeks a notice in the official newspapers of said city, that at a time

and place therein specified, it will meet to make a final determination thereof. Such notice shall contain a brief description of the character, location and extent of such proposed improvement. At such meeting of said board any person shall be entitled to be heard for or against such improvement.

1. **Determination to make improvement, letting contract.**— If the board shall finally determine to make the improvement it shall record an order to that effect in its minutes and shall cause plans and specifications thereof which may specify in the alternative such different kinds of material as the board may see fit, accompanied by a map establishing and fixing the grade therefor, to be prepared by the city engineer, which shall be presented to the board of public works and if approved by it, shall be filed with the city clerk. The board of public works shall then advertise for bids for the making of such improvements with each kind of pavement or materials specified, according to such plans and specifications, by publishing a notice in the official newspapers of the city and in such other manner and for such time as such board shall direct. Each contract must be awarded to the lowest bidder who in the opinion of the board is responsible for the performance of the same with the material finally adopted by the board of public works, who shall furnish the security as hereinafter provided, unless the board of public works shall deem it for the best interests of the city and the adjacent and contiguous property-owners, to reject all bids made. If no satisfactory bid shall be received pursuant to said advertisement, or otherwise, the board of public works may proceed as specified in section thirty-four of this act in case of the rejection of a bid. No bid shall be accepted unless accompanied with such security in such amount and penalty and in such form as the board of public works may direct and approve, conditioned that the bidder will accept and execute a written contract and specification in case it shall be awarded to him. Said security shall be so given after proper specification shall have been made and filed in the office of the city clerk and after notice for such bids has been published at least once in the official newspapers of the city. The advertisement for bids need not contain the specifications but may refer to them as on file. No contract shall be let for such improvement unless the contractor shall also have executed and delivered to the city a bond in a penalty not less than one-half the amount of the contract, to be fixed by the

board of public works, duly executed and acknowledged, with two or more sureties, who shall qualify as prescribed for sureties in civil actions, or with a responsible surety company which bond shall be approved, as to its form and sureties, by the board of public works and by the city attorney, and shall be filed with the city clerk. Such bond shall be conditioned for the faithful performance by such contractor of his contract in accordance with the terms thereof, and to indemnify and save harmless the said city from all negligence on his part or that of his subcontractors or his or their agents, employees or servants, and to pay or cause to be paid the wages and compensation of all laborers who shall be employed in work in and about such improvements, and to pay for all materials furnished in and about such improvements. Actions or proceedings on such bond may be brought by the laborers and materialmen secured thereby at any time within one year after such cause of action accrued, in their name or names or that of their assigns, but the city shall not in any manner be liable or responsible by reason of such bond, or for costs of any such action or proceeding thereon by any laborer, materialmen or their assigns.

2. **Liability of city.**— The city shall not be held in any action brought or had under any contract made with the contractor as aforesaid, for any other or greater liability than that expressed therein, nor required to pay out or otherwise dispose of any sums of money for the doing of such work or the furnishing of such material greater than is stipulated in such contract, nor otherwise than in strict conformity with the stipulations thereof. Extra work, however, may be done or materials furnished and allowed for by said board of public works, but the same must be along and upon the line of the proposed improvements, and must be allowed by said board in writing before said work is done or materials furnished.

3. **Sewer mains.**—Whenever the board of public works shall finally determine to make such improvements, to wit: to pave, repave or macadamize any street or part thereof, and shall record an order to that effect in its minutes and the sewer mains have not been laid in said street, or the portion thereof so determined to be improved, at the time said board of public works shall so finally determine to make such improvements said board of public works shall have power to cause said sewer mains to be laid in said street, or the portion thereof so determined to be improved,

and to that end and for that purpose said board of public works is hereby authorized to build and construct sewer mains, in said street or the portion thereof so determined to be improved, including branches therewith at all street intersections, and the expense thereof including all labor and materials therefor shall be a debt, charge and liability against the city of Oneonta, and the cost and expense thereof shall be either a part of the amount annually raised by taxation by the common council of said city in addition to the sum specified in and provided by subdivision four of section seventy-two of this act, or, at the option of the common council of the city of Oneonta, bonds of said city may be issued therefor by its common council, and the issuance of such bonds shall in all respects be subject to the same conditions and limitations as are the issuance of other city bonds elsewhere provided in this charter.

4. **Water and gas mains; telephone and electric light wires.**— And whenever the board of public works shall finally determine to pave or repave any street or portion of a street, and either the water or gas mains or both are not at said time laid in said street or the portion thereof so determined to be so improved, the board of public works shall have power to require and compel any water works company or gas light company, or the owners of any water works or gas light works having their mains laid in any of the streets of said city, to lay their mains in and along the street, or portion of a street so finally determined by said board to be improved as aforesaid, within such limits, of such size, not exceeding the size of the adjoining pipes, in such manner, and in such place and within such time as the board of public works shall determine, and may serve written, typewritten or printed notice thereof accordingly, upon such water works company or such gas light company or upon such owners or owner of water mains or gas mains hereinbefore specified, to so lay or extend its or their mains, in and along said street or portion thereof so finally determined to be improved as aforesaid, as required by said board of public works. And likewise the board of public works, under such circumstances, may require any telephone or electric light company, having its wires or cables extended overhead along any such street or portion thereof so determined to be so improved, to place the same in subways along the part to be so improved and to remove the overhead construction under the same terms and subject to the same conditions prescribed herein for the laying of gas mains. And in

case of neglect or refusal of such water works company, or such gas light company, or such telephone or electric light company, or such owners of water or gas mains as aforesaid, to lay said mains in said street, or such portion thereof, as directed by said board of public works, and within the time and in the manner, and as so ordered and directed by said board of public works, the board of public works shall have the power to lay and complete the same, and the actual cost and expense incurred in doing the same shall be a valid charge and claim by the city of Oneonta against said company, or said owner of mains as aforesaid, neglecting or refusing to so lay and complete the same, and for which said city may maintain an action against said company or owner aforesaid, and such cost and expense shall be a lien and assessed against and collected from such company or owner in the same manner as other real estate assessments are made and collected for general purposes as provided in this act.

5. **Water and sewer connections.**— And when the sewer, gas and water mains have been laid and completed in any street, or portion thereof in or upon which the board of public works shall have finally determined to make such improvements, by paving or repaving, the board of public works shall immediately cause a notice to be published in the official newspapers of the city, requiring the owners or occupants of any and all property fronting or abutting on said street, or the portion thereof upon which such improvements are to be made, to make connections with the water, gas and sewer mains in said street, or the portion thereof to be so improved, and to make and lay service and house connection pipes from said sewer mains and said water mains and said gas mains in front of each separate piece of property, and where directed by said board of public works, at least to a point within the line of the curbing, within such time and in such manner as the board of public works shall prescribe; and whenever any such owner or occupant shall have made default in making such connections with said sewer mains and water mains and gas mains opposite the lands and premises owned or occupied by him and in making and laying service and house connection pipes therefrom, at least to a point within the line of the curbing, as directed in and required by said printed notice therefor in the manner and within the time therein specified, the board of public works shall have power and authority to so make, extend and complete the same

to a point within the line of curbing opposite thereto and in front thereof, and the actual expense thereof, including all labor done and materials used in doing and completing the same, shall be assessed by the common council of said city upon each separate piece of property, opposite which the same shall be done, and completed, and shall be a lien and liens on said premises and lots of land respectively, and the same shall be collected in the same manner as other local assessments, or assessments for local improvements, provided by the charter of said city.

6. **Cost and expenses of improvement.**— The cost and expense of such improvement, namely, of such paving, repaving, macadamizing or remacadamizing shall be deemed to include, in addition to the actual contract price, with or without covenants of maintenance thereof, and cost of all labor and material therefor, the sums actually paid or incurred for services of a competent engineer and inspectors in connection with such work and in connection with the proceedings therefor, also interest on all sums of money which may be borrowed by said city, in doing and prosecuting such work and improvements prior to the issue of bonds therefor as hereinafter provided, which said sums the chamberlain of said city is hereby authorized to borrow temporarily during the progress of such work from time to time, on the faith and credit of said city, pursuant to resolution of the board of public works therefor, prior to the issue of series "A" bonds and series "B" bonds as hereinafter provided. And such cost and expense shall also include all necessary printing and publication in the official newspapers of the city and in such other newspapers and journals as said board shall direct of all notices or matter herein provided; and also include the cost of all maps, plans, surveys, profiles, printed matter, and all other labor and materials whatsoever, necessary or incident thereto, or connected therewith. The cost and expenses of such paving, repaving or macadamizing as are made along and border upon and are contiguous and adjacent to any property owned by the city, including crosswalks and intersections of streets, and one-third of the remainder of such improvements, exclusive of the amount charged to any railroad company, shall be paid by the city at large; the balance of the cost and expenses of such improvements, exclusive of the part to be done or paid for by any railroad company under the terms of the general laws of this state, shall be paid and become a charge upon and shall

be assessed against the real estate abutting and bordering upon and contiguous and adjacent to the streets, alleys, public places or way, or any part thereof, so improved. The whole or any part of the cost and expense of said improvement between the tracks, the rails of the tracks and two feet in width outside of the tracks of any street surface railroad corporation using its tracks in any street, avenue or public place in the city, incurred by the city after failure of such corporation to pave, repave, macadamize, remacadamize or repair on any such street, avenue or public place within thirty days after notice so to do from the common council or the board of public works or in the behalf or by the authority of either, may, after payment thereof by the city, be assessed against and collected from such corporation in the same manner as assessments are made against and collected from abutting property-owners for pavements, except that not more than sixty days' time shall be given to such railway company to pay the same after it shall become due and before proceedings may be instituted to collect the same, after which sixty days such assessment shall bear interest at the rate of eight per centum per annum, and all the franchises and property of any such railroad corporation may be sold to collect such assessment or assessments with such interest against said railroads in the same manner as provided for the sale of real property to collect other taxes in the city and all the provisions of law applicable to the collection of taxes by a sale of real property in the city of Oneonta are hereby made applicable to the collection of such assessment or assessments herein provided for except that notice of sale may be served personally on such company or companies instead of being posted upon the property to be sold and such assessment or assessments when so made shall be a first lien superior to any lien by mortgage, judgment or otherwise except the lien of an existing tax on all the franchises and property of such corporations and nothing herein contained shall in any way impair any other remedy or remedies at law or otherwise for the collection of such cost and expenses of such repairs and pavements or any part thereof or for the collection of any part thereof not realized by a sale as herein provided. The board of public works shall ascertain the whole cost and expense of such improvement and shall apportion the same upon all the real estate fronting upon said street, section of a street or public square then to be improved in proportion to the benefit which each owner of said

real property may be deemed to receive, first deducting the share thereof imposed upon the city and the share or any portion thereof which any street or other railroad company may be liable to pay for the improvement between its tracks and on each side of them. The true intent and meaning hereof being that two-thirds of the entire cost and expense of such improvements, exclusive of street intersections, and the share of said railroads shall be assessed upon and be borne by the lots and lands abutting upon and adjacent to such improvements, and by the owners thereof, and persons interested therein. The word "pavement," as herein used, is intended to include curbs and gutters. The board of public works shall report such apportionment and the amount for which such railway company shall be liable and a list of all the lots and parcels of land liable to assessment with their respective frontage and a description thereof to the common council.

7. **Assessment of costs and expenses of improvement.**— The common council shall assess upon any railroad company liable to assessment hereunder its share of the costs and expenses of such improvements and the said assessment shall be collected in the same manner as other assessments are collected by the chamberlain as provided in this act. The common council shall assess the residue of such costs and expenses, after deducting the share to be paid by the city at large, such residue being in the aggregate two-thirds of the entire cost and expense of such improvements, after deducting from such entire cost and expense the expense of all street intersections and all railroad assessments, upon all the real estate fronting upon said street or section of a street, public square or place, so improved as hereinbefore provided, and shall make a just and equitable assessment of the amount so fixed by it against the said owners and occupants and upon such lands deemed to be benefited as herein provided, assessing each parcel as near as may be in proportion to the benefit which each owner of real property may be deemed to receive therefrom and shall thereupon cause a notice to be published in the official newspapers of said city, that the assessment roll has been filed with the city clerk and that the common council will on a certain day and place to be therein specified, which shall not be less than ten days from the first publication of said notice, proceed to confirm said assessment. At the time and place named in said notice or at any other time or place to which the common council may from time to time adjourn said hear-

ing, any person interested may appear before the common council and apply to have said special assessment roll altered or corrected as he may deem just. After hearing all such applications the common council may proceed to make such alterations and corrections in said special assessment roll as it may deem just, and by resolution confirm the same; the said assessments shall thereupon be and become final and conclusive upon all parties interested, both as to the regularity and validity of the proceedings, and of each and every part thereof, and as to the validity of each and every assessment thereunder, and as to the respective amount thereof. The owner or owners of, or persons interested in, any lot or parcel of land locally assessed, as hereinbefore provided, may pay and cancel such local assessment at any time within thirty days after such final assessment and confirmation thereof. If such owner or owners or persons interested in any lot or parcel of land so locally assessed shall neglect or omit to pay such local assessment within said period of thirty days above specified, then and in such case such local assessments so remaining unpaid shall be continued and remain a lien or liens respectively on the respective several pieces or parcels of land of the several and respective owners thereof, abutting on or opposite such street or part of a street so improved, until the same shall with interest thereon be paid as hereinafter provided.

8. **Payment of assessments.**— Such local assessments shall become due and payable in ten equal annual payments, as follows: One-tenth part thereof, with one year's interest at five and one-half per centum per annum upon the whole amount unpaid of said local assessments, annually for each year thereafter until paid, and which local assessments with interest thereon as above provided shall be by the common council of said city added annually to the next city assessments upon said property so assessed respectively and levied and collected in the ordinary way of levying and collecting taxes in said city, with the same liability thereon by said owners respectively, for interest and penalties thereon if not paid at maturity, as is provided by the charter of said city with respect to its other taxes, tax liens and assessments, and including all the rights, remedies and practice provided by title eleven of this act which is hereby made applicable thereto. Such assessment may be paid at any time prior to maturity.

9. **Bonds for pavements.**— To provide funds for the payment of such portion of the costs and expenses of such improvements, as are to be borne by the city at large, including all the items hereinbefore specified, said common council shall issue bonds or certificates of indebtedness of said city which shall be designated series "A," and thereby pledge the faith and credit of said city to the extent that said city is authorized by law to issue bonds and certificates of indebtedness, and which bonds or certificates shall bear interest at a rate not to exceed four and one-half per centum per annum, and shall be for such amounts and upon such terms as may be determined by said common council, but all of said bonds or certificates of indebtedness shall become due and payable not less than three per centum of the whole amount thereof annually. Such bonds or certificates of indebtedness, when issued, shall be binding upon said city, and shall contain a recital that they are issued pursuant to the provisions of the charter of said city, and such recital shall be conclusive evidence in any court of the validity thereof and of the regularity of their issue. Each of said bonds or certificates of indebtedness shall be signed by the mayor and countersigned by the clerk of said city, and they may be issued, in the discretion of said common council of said city, directly to pay for the improvements provided for by this section, but if not so used, they shall be delivered, when issued, immediately to the chamberlain of said city, and be by him sold, at public or private sale, to the highest bidder, but not for less than par and accrued interest, and the proceeds thereof shall be used in paying the costs and expenses of such improvements provided for by this section, and as herein provided, or to repay the moneys borrowed therefor, with interest, or both, and for no other purpose. All of said bonds or certificates of indebtedness shall be numbered consecutively, and a record thereof kept by the clerk of said city, and also by the chamberlain of said city, of those which shall be delivered to him to be sold as before provided, showing the date, number, amount and date of maturity of each. All moneys derived from a sale of said bonds and certificates of indebtedness shall be kept by the chamberlain of said city as a separate fund, and designated "the public works improvement fund," and all orders for the payments of any moneys from said fund shall be drawn directly upon said fund, and shall be signed by the president of the board of public works

and countersigned by the clerk of the said city. If the proceeds derived from the sale of the bonds and certificates of indebtedness issued under the provisions of this section exceed the amount of the actual cost and expense of such improvements to be paid by said city at large as herein provided, such surplus of said funds shall be used to retire or pay off the bonds or certificates of indebtedness or interest thereon, as the same shall become due and payable. To provide funds for the payment of the costs and expenses of such improvements, as are to be assessed locally upon the abutting property, said common council shall issue short term bonds or certificates of indebtedness, in an amount necessary to meet the amount assessed upon abutting property heretofore specified in this title, and remaining unpaid, and which bonds or certificates of indebtedness so issued shall be designated series "B," and shall become due and payable at such times, and in such amounts as such unpaid local assessments before specified shall become due and payable, as near as may be, and which bonds and certificates of indebtedness shall bear interest at a rate not to exceed four and one-half per centum per annum, and shall have the same force and validity, and contain the same recitals and be numbered consecutively, and issued and disposed of in the same manner, and with the same restrictions, and the avails received therefrom deposited with the city chamberlain of said city to the credit of the same fund, and paid out for the same purpose, and upon the same authority and in the same manner in all respects as provided in this section with reference to bonds and certificates of indebtedness, designated series "A." The moneys received upon the collections of local assessments, as provided in this section, shall be used by said common council in paying and cancelling the costs and expenses of such improvements as shall have been so locally assessed, and in paying and cancelling the short term bonds or certificates of indebtedness issued under this section, and designated series "B," and any surplus derived from series "B" bonds, by way of premiums or otherwise, shall be used to retire and pay off the interest or principal thereof as the same shall become due and payable. In case any railway company shall neglect or refuse to make its share of any of the improvements in this act provided for, in accordance with the terms of this act or of the general law, and the city shall make the same, said

common council shall have the right to issue short term bonds or certificates of indebtedness in an amount necessary to pay the cost of expense of said share of any railway company, and any sums received on account of such cost and expense shall be applied to the retirement of such indebtedness.

10. **Macadamizing or slagging without petition, et cetera.**— Provided, however, that in addition to the foregoing provisions of this section, if the board of public works shall, by a resolution adopted by a unanimous vote of all the members of said board present at such meeting, decide that any street or section of a street ought to be macadamized or remacadamized or ought to be built or rebuilt of slag or other suitable materials either with or without suitable curbs and gutters in connection therewith, and in addition thereto, shall decide by unanimous vote of all the members of said board present at such meeting, that the total cost and expense thereof, exclusive of the share of any street railway company, with or without suitable curbs and gutters in connection therewith, ought to be borne by the property-owners whose lands abut upon said street or section thereof proposed to be so improved in a lesser share than the two-thirds thereof or thereabouts, as herein provided in this section seventy-eight, in such cases said board of public works may macadamize or remacadamize the same, or build or rebuild the same of slag or other suitable materials, without any consents in writing of the abutting property-owners, and without the concurrence of the common council, upon such ratio and division of the entire cost and expense thereof, exclusive of the share of any street railway company, as between the city of Oneonta and the owners of property abutting thereon, as said board shall decide to be just and equitable, but in no cases shall more than two-fifths or forty per centum in the aggregate, of such entire cost and expense of such improvements, including curbs and gutters, exclusive of street intersections, and the share of any street railway company, be assessed upon the owners of property abutting thereon. But up to said two-fifths of such entire cost and expense thereof, including curbs and gutters, the same may be assessed upon the owners thereof and upon the property abutting thereon. And in such case the entire provisions and practice of section seventy-eight as hereby modified, and each and every part thereof, including assessments on abutting property-owners, and including the rights and remedies against any railroad, its owners, or owner,

the issue of series A and series B bonds, shall apply to such proceedings, excepting that neither consents of the abutting property-owners nor the concurrence of the common council shall be necessary therein, and excepting that the division and ratio of the entire maximum cost and expense thereof as between the city of Oneonta and the abutting property-owners shall be as herein provided in this subdivision of said section seventy-eight of this act, and excepting also that the work may be done and material furnished without public letting, and without consent of the common council where the total estimated expenditure for such improvement does not exceed five hundred dollars, but if it exceeds the sum of five hundred dollars, it may in all cases be done without public letting, if the common council of said city by resolution consent thereto. And excepting also that the board of public works may also in its discretion pay the whole or any portion of the city's share and portion of the expense of such improvement out of public works fund as it may direct before issuing series A bonds for any balance thereof.

§ 79. **Establishing of grade, et cetera.**— The board of public works shall, within two years after the passage of this act, fix and establish the grade line of all streets, sidewalks, public places and squares in the city, shall cause to be prepared a map of the city, with necessary profiles, showing the boundaries, alignment and grade of all the streets, the grade line of all sidewalks, the boundaries and grades of all public places and squares and the location of the sewers, and shall thereafter change and add to such map so as to make it conform to any alterations in said boundaries, grades and alignments made by such board, and show all extensions of the sewers that shall be made. Any map conforming substantially to the requirements of this section made by the authorities of the village of Oneonta, or of any department thereof, shall be regarded as made hereunder, and may be used in place of, or as a part of, the map hereby required.

§ 80. **Change of grade of streets, et cetera.**— The board of public works shall have power to change the grade of any street, public place or square, whenever such change shall be necessary. If the grade of any street, public place or square in which a street surface railroad is now, or shall hereafter be operated or in which there are gas, water or other pipe or conduits of any character shall be changed, or if any such street shall be straightened, widened or altered, the railroad corporation operating such

street surface railroad and the owner or owners of such pipe or conduits shall change its grade and line and his or its pipes or conduits to conform to such alterations, if required so to do by the board of public works; the expense thereof shall be borne by such railroad corporations and such owner or owners unless the city shall be legally liable to pay the cost of such change of the grade and line of such railroad, pipe or conduits. Whenever the grade of any street in said city shall have been established and graded, and private property adjusted to such grade, the same shall not be changed to the injury of such property without just compensation therefor.

§ 81. **Sidewalks, curbs and gutters.**— Whenever property-owners representing a majority of the taxable property in number of parcels and value on either side of a public street, or portion thereof to be affected, by petition request a sidewalk or that a new sidewalk be laid on such side or portion thereof, the same shall, if approved by the board of public works, be laid by them as soon as practicable, and its cost be paid for as provided in this act. The number of parcels and value of property represented on all such petitions to be determined as it appears on the last assessment roll of the city. The improvements or any of them hereinbefore provided for may be made and the expense paid, assessed and collected as provided in this act without a petition, or in case a petition be insufficient, provided the board of public works make a declaration of the necessity and an order of such improvement by a two-thirds vote after a resolution for a preliminary plan and an estimate of the cost thereof, and after such plan and estimate, made and signed by the city engineer, shall have been filed with the clerk of the city, and after notice of such filing and the proposed improvement and that such plan and estimate are open at such clerk's office to the inspection of any person interested and fixing the time when and a place where a final hearing will be had and objections thereto will be heard, signed by the clerk of the city, shall have been given by three successive publications of such notice once each week in the official newspapers and after such hearing provided for by such notice. In case of such procedure without a petition or without a sufficient petition, the work shall be done in substantial conformity with such preliminary plan, and the assessment against property-owners shall not be at any greater rate or on any greater basis than such preliminary estimate. A street or any part thereof may be curbed or guttered

without a petition and without such procedure and the cost thereof borne and collected as provided in this act. One or more improvements on the same or different streets may be included in the same proceeding, but the plans and estimates must be distinct and separate and in determining after such hearing, the board of public works may decide upon part of the improvements or a part of a single improvement, and in making the assessment apportion the estimate, or may decide that such proposed improvement or improvements are unnecessary. The expense of any sidewalks, guttering and curbing shall be borne one-third by the corporation and two-thirds by the property-owners adjacent thereto on the side of the street where the same is laid. All street crossings shall be made by the corporation. The assessments for improvements provided for in this section shall be made in accordance with the provisions of section seventy-eight, subdivision seven, of this act and shall be due and payment thereof enforced in accordance with the provisions of title eleven of this act so far as the same are applicable.

§ 82. **Cleaning sidewalks and gutters of snow and ice.**— It shall be the duty of every owner or occupant of every lot or piece of land to keep the gutters, and the sidewalks adjoining his lot or piece of land at all times clean and free from snow, ice or other obstructions. It shall be the duty of such owner or occupant to remove new ice and freshly fallen snow from such sidewalk before nine o'clock in the forenoon of each day. In default thereof such owner or occupant shall be subject to such fine or penalty therefor as shall be prescribed by the board of public works. Also the superintendent of public works shall have power to remove all snow and ice which the owner or occupant has neglected to remove before the said hour of nine o'clock in the forenoon, or any other obstruction upon the sidewalks, and no ordinance for the same need be passed, or notice given; the expense thereof shall be assessed and collected in the same manner as the expense of constructing and repairing sidewalks.

§ 83. **Street cleaning and repairing.**— The board of public works shall have the power to cause the streets, lanes, alleys, highways and public grounds and places of said city to be cleaned and repaired from time to time and the expense thereof shall be paid by the city.

§ 84. **Work may be done by contract.**— Except as herein otherwise provided, all work, within the purview of this title, may in the discretion of the board of public works be done by contract, to be let to the lowest bidder under the regulations and limitations prescribed in section seventy-eight of this title in reference to the paving of streets.

§ 85. **Correction of errors.**— Errors and irregularities in the proceedings contemplated by this title, if shown to injuriously affect a party or parties thereto, may be corrected on review thereof, on the application of the party injured, or his damages occasioned thereby recovered in an action against the city, subject to the regulations of this act.

§ 86. **Taxes and assessments under this title, lien of.**— Every tax and assessment imposed under any of the provisions of this title shall be a lien upon all real estate against which the same shall be assessed for ten years from the filing of such assessment roll, superior to any mortgage, judgment or other lien of any nature, except general city and school taxes, affecting the same and shall have priority thereto, or to any conveyance thereof, and notice to the occupant or tenant shall be held to be deemed a notice to the owner or owners of said real estate.

TITLE VI.

BOARD OF FIRE COMMISSIONERS AND FIRE DEPARTMENT.

Section 90. Control of department vested in board.
91. Chairman of board.
92. Meetings of board.
93. Duties of chief and assistant engineers.
94. Present fire companies to constitute a department.
95. Annual report.
96. Audit of bills and reports of fires and fire losses.
97. Rules for the department.
98. Charge and sale of property.
99. Appropriation of unexpended moneys.
100. Exempt firemen.

§ 90. **Control of department vested in board.**— The powers and duties connected with and incident to the organization, control, government, discipline and disbandment of the fire depart-

ment of the city of Oneonta, or any part thereof, except as herein otherwise provided, shall be vested in and exercised by a board of fire commissioners.

§ 91. **Chairman of board.**— The members of said board shall select one of their number as chairman of said board, who shall preside at the meetings when present, but who shall not lose his vote as commissioner by reason of his acting as presiding officer at any time.

§ 92. **Meetings of board.**— Said board of fire commissioners shall hold meetings at least once in each month, and special meetings may be held on the call of the chairman or any two members of the board. The attendance of two commissioners shall be necessary to constitute a quorum. No meeting of the board shall be held for the appointment or discharge of any paid employee without serving a written or printed notice thereof upon each of the commissioners, or leaving it at his place of residence, at least three hours before the time of meeting, and no appointment or discharge of any such employee shall be made except by the affirmative vote of a majority of all the commissioners.

§ 93. **Duty of chief and assistant engineers.**— The chief engineer of the fire department shall, under the direction of the board of fire commissioners, have the general superintendence and custody of the fire engines and other fire apparatus and conveniences for the prevention and extinguishment of fires, and it shall be his duty to see that the same are kept in proper order. It shall be his further duty to be present at fires and to take command of the fire companies present, and exercise a general superintendence and control of the operations and proceedings of the different companies present, and to give direction concerning the same. He shall also have power and discretion to suspend from duty any member of said fire department, and report the same to the board of fire commissioners for their action. Any member of the said fire department so suspended shall have an opportunity to be heard in his defense before said board of fire commissioners. It shall be the duty of the assistant engineers to be present and aid the chief engineer at all fires; and in case of his absence, the powers and duties of the chief engineer shall be exercised and discharged by the senior assistant engineer.

§ 94. **Present fire companies to constitute the department.**— The several fire companies at present comprising the fire depart-

ment of the village of Oneonta shall, after this act takes effect, continue under the same names and organizations as at present, but each officer, member or company thereof shall thereafter belong to and be a portion of the fire department of the city of Oneonta, be under the control and government of said board of fire commissioners, and be subject to suspension or removal by said board at will.

§ 95. **Annual report.**— The said board of fire commissioners shall, in the month of November in each year, prepare and certify an estimate, including the fire alarm telegraph, as provided in section fifty-four of this act. Whenever in the judgment of said board of fire commissioners the needs of the department shall require the purchase of real estate, or the expenditure for any purpose in any one year of a greater sum than that inserted by the common council in the annual tax levy, they shall likewise report the same in detail, to the mayor, in order that the necessary proceedings may be taken by the common council if said report be favorably acted upon by the said common council, to submit the question of raising such additional sum or sums by taxation to the taxable inhabitants of said city as provided by this act.

§ 96. **Audit of bills and report of fires and fire losses.**—All bills for expenditures and services connected with the said fire department must be audited and ordered paid by the board of fire commissioners, and paid by drafts on the chamberlain signed by two commissioners of the board. The said board of fire commissioners shall, on or before the tenth day of January in each year, present to the common council of said city a report showing a complete inventory of all property under their charge, which report shall also exhibit a particular statement of all fire alarms and fires which have occurred in said city during the preceding year, together with the cause of all such fires, as far as the same shall have been ascertained. It shall also exhibit a particular statement of losses caused by such fires and all insurance thereof. It shall also show the quality of hose which shall have been used, the source whence the supply of water was derived, the names of all officers of said fire department and of the companies therein, the names of all persons in the employ of said fire commissioners and the compensation paid to them, and a statement of all expenses paid or incurred in the fire department during the year,

and such other information relating to the fire department as to said commissioners shall seem important.

§ 97. **Rules for the department.**— The board of fire commissioners shall make such rules and regulations as it may deem best for its government, or the fire department, provided such rules and regulations shall not conflict with the laws of the state or of the United States.

§ 98. **Charge and sale of property.**— The said board of fire commissioners shall have charge of all property now in use or hereafter to be acquired by the city of Oneonta for the purpose of extinguishing fires, including all the rooms for storing the same, and shall regulate and keep in repair all property of said city for use in extinguishing fires. The said board of fire commissioners shall also have power, by and with the approval of the common council of said city, to sell the same or any part thereof, except real estate, the proceeds of said sale to be forthwith paid over to the city chamberlain and by him kept in a separate fund, the moneys of which may, by the said board of fire commissioners, be applied to the purchase of other apparatus or property, or for any other fire department purpose.

§ 99. **Appropriation of unexpended moneys.**—All moneys in the hands of the treasurer of the village of Oneonta which have been raised or provided for fire department purposes and unexpended when this act shall take effect are hereby appropriated for the purpose provided by this article.

§ 100. **Exempt firemen.**— Every member of any of the fire companies of said city, while such member, shall be exempt from serving in the militia, except in case of war, invasion and insurrection, and every person who shall serve in such fire department five successive years shall thereafter be entitled to like exemption from military service, and a certificate of such service, authenticated by the mayor of the city with the corporate seal attached, shall be presumptive evidence before all courts and officers, civil and military, of such exemption. The members of any of the fire companies of said village in service when this act takes effect shall be entitled to credit the term of their years of service in said companies of said village in computing the number of years of service required by this act to secure the exemptions provided for in this section.

TITLE VII.

THE POLICE DEPARTMENT.

Section 110. Board of police commissioners; organization.
111. Vacancies; how filled.
112. Officers of police, patrolmen and special policemen.
113. Qualifications of police.
114. Vacancies in police force.
115. Duties of chief of police or captain.
116. Charges, trials thereon.
117. Exemption from military and jury duty.
118. Officer not to be delegate.
119. Unlawful conduct at primaries, et cetera.
120. Powers and duties of police.
121. Service of criminal process.
122. Expenses in execution of process.
123. Presents or rewards.
124. Payment of salaries and expenses.
125. Appropriation of moneys.
126. By-laws of police force.
127. Station houses.
128. Commitment to police station; account of criminal expenses chargeable to county.

§ 110. **Board of police commissioners; organization.**— The members of the board of police commissioners shall choose one of their number chairman, who shall not lose his vote thereby. Two members shall constitute a quorum but no action of the board shall be taken except by the concurring votes of two members. Said board of police commissioners shall hold stated meetings on the first Wednesday of each month and other meetings upon the call of the mayor or of any two members. No meeting of the board shall be held for the appointment or discharge of any paid employee without serving a written or printed notice thereof upon each of the commissioners, or leaving it at his place of residence, at least three hours before the time of meeting, and no appointment or discharge of any such employee shall be made, except by the affirmative vote of a majority of all the commissioners.

§ 111. **Vacancies, how filled.**— In case any vacancy shall occur in the office of police commissioner of said city, such vacancy

shall be filled for the unexpired term in the manner provided in this act for the original appointment. The resignation from office of any police commissioner shall be made to the mayor of said city and shall be subject to his acceptance.

§ 112. **Officers of police, patrolmen and special policemen.**— The first board of police commissioners of the city shall organize within ten days after their appointment. Subject to the terms of this act, the police force of the village of Oneonta shall constitute the police force of the city of Oneonta. Upon the application of any corporation, society, person or persons showing the necessity therefor, the said board of police commissioners may, whenever deemed expedient, appoint and swear in special policemen, not exceeding the number so applied for, who shall serve for a time not exceeding that stated in the application, but the compensation of such special policemen which shall be fixed by the board shall be paid by the corporation, society, person or persons requesting their appointment. Said special policemen may be removed, at any time, by said board, without cause assigned therefor and notice of such removal shall be forthwith given to the corporation, society, person or persons who applied for their appointment as aforesaid. Such board may also, upon any emergency, or for any special purpose, appoint not more than six special policemen at a compensation not to exceed three dollars per day for a term not to exceed five days, and as many special patrolmen without pay as it shall deem desirable.

§ 113. **Qualifications of police.**— No person shall ever be appointed a captain of police, sergeant, patrolman or special policeman by said board or shall continue to hold such office who is not a citizen of the United States, or who has ever been convicted of crime, or who cannot understand English or read or write the English language, or with the exception of the chief of police, who at the time of his appointment is over the age of forty-five years.

§ 114. **Vacancies in police force.**— The board of police commissioners shall, within thirty days after a vacancy occurs in the police force for any cause, appoint a successor to the person whose office has become vacant, unless the common council shall have determined to reduce the force.

§ 115. **Duties of chief of police or captain.**— It shall be the duty of the chief of police or captain, under the direction of said board, to superintend the police department of said city, of which

department he shall be the chief executive officer and shall have full control of the patrolmen subject to the direction of said board of police commissioners. He shall keep a book of records to be denominated "police records" in which he shall make daily entries of all the proceedings of his department and of all the services rendered by him and the several members of the police force. He shall, on the first meeting of each month, report to the board of police commissioners the state of his department, the service performed by the members of the police force respectively; the amounts respectively due each of them for their services in the preceding month, and whether any of them has been disorderly in behavior or delinquent in his duties.

§ 116. **Charges, trials thereon.**— If a charge be made by any person against any member of the police force that he is incompetent or has been guilty of neglect of duty, misconduct in his office, or of conduct unbecoming a police officer, the charge must be put in writing in the form required by the rules of the police department and a copy thereof must be served upon the accused officer and filed with the board of police commissioners, unless a member of said board be the person making the charge; and then it shall be the duty of the board of police commissioners to hear, try and determine the charge according to the rules of the police department. The accused officer shall have the right to be present at his trial and to be heard in person and by counsel, and to give and furnish evidence in his defense. Any police commissioner may issue subpoenas under his hand for witnesses to sustain or refute the charge, and any such witness duly served with a subpoena shall be bound to attend in obedience to the command thereof, and the said commissioner shall have the same authority to enforce obedience to the subpoena and to punish for disobedience thereof as is possessed by justices of the peace in like cases. If the said board shall find the accused officer guilty of the charge made against him, it may suspend or remove him, or impose upon him a fine not exceeding fifty dollars, or reduce his grade or it may subject him to any other discipline prescribed in the rules of the police department which is not inconsistent with the provisions of this act or with the laws of the state or the United States. But such proceedings shall not limit the right of the board to discharge at will any chief or patrolman.

§ 117. **Exemption from military and jury duty.**— No member of the police department is liable to military or jury duty or to

arrest on civil process, or to service of subpoena from civil courts, while actually on duty, nor shall he hold any other office or be employed in any other department of the city government.

§ 118. **Officer not to be delegate.**— No officer of the police force shall be a member of, or delegate to any political convention, nor shall he be present at any such convention except in the performance of duty relating to his position as such officer or member; and any violation of these provisions shall work a forfeiture of his office and position, and it shall be the duty of the board of police commissioners to dismiss him from his office or position, and enter on record the cause of such dismissal.

§ 119. **Unlawful conduct at primaries, et cetera.**— It shall be unlawful for any police officer to solicit any person to vote at any political caucus, primary or election for any candidate, or to challenge any voter, or in any manner to attempt to influence any voter at any political caucus, primary or at any election, or to be a member of any political committee; and any person violating the provisions of this section shall forfeit his position under the city government.

§ 120. **Powers and duties of police.**— The members of the police force of said city shall possess in every part of the state of New York all the common law and statutory powers of constables, except for the service of civil process, and any warrant for search or arrest issued by any magistrate of the state of New York may be executed in any part of the state by any member of the police force of said city with proper indorsement of said warrant and according to the terms thereof; they shall also have the same power and authority which a constable possesses in civil cases and special proceedings, so far as serving and executing all process and papers in any action or proceeding in behalf of the city of Oneonta or any officer of such city suing as such, including proceedings in bastardy cases, but not otherwise. In all cases in which they are authorized to act, they shall possess the same powers, perform the same duties and be subject to the same liabilities as constables, except as herein otherwise provided. They shall execute the orders and commitments of the city judge in said city and of all courts held by him for the trial of criminal cases. They shall convey all persons sentenced by him to confinement and they shall serve and execute all civil

process or proceedings issued or directed by any officer or court in said city in favor of said city, or in which said city shall be a party.

§ 121. **Service of criminal process.**— All criminal process for any offense committed within said city, issued out of any court within said city, and all process, subpoenas, bench warrant or otherwise, issued by the district attorney of the county of Otsego, relating to any offense committed within said city, may be served by a member of said police force.

§ 122. **Expenses in execution of process.**— The necessary expenses incurred in the execution of criminal process within said city shall be a charge against the city. No fees or compensation whatever, other than as herein provided, shall be charged or received by any officer or member of the said police force for the arrest, confinement or discharge of any person or for mileage and travel, or for serving any warrant, subpoena or process, or for discharging any other duty required by this act; nor shall any such fee or compensation be charged or received by any officer or citizen for the arrest of any person charged with crime, or for the service of any warrant, subpoena or other process in any criminal case, other than as herein provided.

§ 123. **Presents or rewards.**— No member of the police force or special policeman shall receive any present or reward for services rendered, or to be rendered, unless with the consent of the board of police commissioners, such consent to be given in writing and filed with the clerk; and any one of their number who shall receive any fee or reward in violation of this section shall thereby forfeit his office.

§ 124. **Payment of salaries and expenses.**— The chamberlain shall pay the salary of the members of the police force monthly, as it shall become due, on the warrant of the board of police commissioners. The contingent expenses of the police department shall be paid by the chamberlain of said city upon the warrant of the board of police commissioners. All warrants of said board must be authorized by a vote of the board and be signed by the chairman and clerk thereof.

§ 125. **Appropriation of moneys.**— All moneys in the hands of the treasurer of the village of Oneonta which have been raised or provided for police purposes and unexpended when this act takes effect are hereby appropriated for the purposes provided by this title.

§ 126. **By-laws for police force.**— The board of police commissioners shall make such by-laws, not inconsistent with the laws of this state, as may be necessary for the government of the police force hereby established, for regulating the powers and duties of the officers and members thereof, for uniforming them, and for the maintenance of law and good order in said city, but no by-law concerning the enforcement of any ordinances of said city shall take effect until after it shall be approved by the common council of said city.

§ 127. **Station houses.**— The board of police commissioners shall provide and keep in order such station houses, lock-ups and other necessary accommodations as shall be required for the use of said police force. The said board may also employ some suitable and competent person to serve as janitor of such station houses and lock-ups, at a compensation to be fixed by them, if authorized so to do by the common council. The board shall furnish work for all persons sentenced by the city court to labor within said city and make regulations therefor.

§ 128. **Commitment to police station; account of criminal expenses chargeable to county.**— The city judge of the city may commit to the police station or lock-up in said city any person charged with crime and pending an examination for trial therefor, and the officer in charge of said police station or lock-up in said city is authorized and required to receive such person so committed and retain him in custody in accordance with committal. The board of police commissioners of the city of Oneonta shall, at the annual meeting of the board of supervisors of the county of Otsego, render to said board of supervisors an itemized account of such criminal expenses as shall be properly chargeable to the county of Otsego. Such expenses which shall include a proportional part of rent of lock-up, lighting of, heating and cleaning the same, board of prisoners, expenses of transportation of prisoners under sentence to place of confinement, and the sum of twenty-five cents for each transient poor lodger sent by the commissioner of charities of said city to the station houses or lock-up shall be audited by the said board of supervisors and provided for and paid in the same manner as all other county charges. Said money shall be received by the chamberlain and credited to the police fund.

TITLE VIII.

DEPARTMENT OF CHARITIES.

Section 140. Powers and duties of commissioner of charities.
141. Monthly report of commissioner.
142. Common council to audit accounts.
143. Commissioners not to be interested in purchases.
144. Care of the sick.

§ 140. **Powers and duties of commissioner of charities.**— Except as provided by this act, the commissioner of charities of the city of Oneonta shall, within the city of Oneonta, have and exercise the same powers and discharge the same duties, to the exclusion of any other officer, as overseer of the poor in towns, and shall be subject to the same obligations and liabilities. It shall be the duty of the commissioner to visit the poor of said city at their several places of abode and examine into their circumstances, and ascertain to what extent they are or may be in need and entitled to permanent or temporary relief, or medical attendance. The commissioner of charities shall have power to administer oaths to, and examine under oath, any person applying to him for relief, and false swearing during such examination shall be deemed willful perjury. For all purposes relative to the maintenance and support of the poor the city of Oneonta shall be deemed one of the towns of the county of Otsego. The commissioner shall issue written orders for all meals, lodgings, provisions and supplies furnished to the poor of said city.

§ 141. **Monthly report of commissioner.**— The commissioner of charities, at the first regular meeting of the common council in each month, shall under oath report in detail to the common council all appropriations, expenditures, temporary relief, medical attendance and allowance made by him as such commissioner during the month preceding, which report shall specify the name and place of abode of each person relieved, the quantity and price per pound, or otherwise as the case may be, of each article furnished or ordered, and from whom obtained; said report shall also contain the names and places of abode of all persons to whom meals or lodgings have been furnished, the number of such meals and lodgings, from whom obtained or by whom furnished, and the cost of same. Said report shall be filed with the city clerk.

§ 142. **Common council to audit accounts.**— All charges and accounts against said city for services rendered, acts done or meals, provisions or supplies furnished under the direction of

the commissioner of charities of said city under the provisions of this act, or otherwise, shall be made out in items, duly verified, by the persons entitled to the payment therefor, and presented to the common council, at the first regular meeting of said council in each month, for all claims and demands incurred or which may have accrued during the preceding month. All such claims, accounts and charges shall, if approved, be audited by the common council and paid from the poor fund of said city by the chamberlain upon the warrant of the mayor, countersigned by the clerk.

§ 143. **Commissioner not to be interested in purchases.**— The commissioner of charities shall not directly or indirectly furnish to any person any groceries, provisions, fuel, medicines or property belonging to himself, or in which he shall have an interest or be interested, nor shall he receive any commission upon or for any articles or goods or relief furnished or any orders given by him for any such goods or articles or relief furnished. For any violation of any provision of this section, said commissioner shall be removed from office by the mayor and he shall forfeit to said city a penalty of one hundred dollars for every such violation.

§ 144. **Care of the sick.**— The commissioner of charities is authorized, subject to the approval of the common council, to annually enter into a contract with the Fox memorial hospital of Oneonta for the care of the indigent sick and injured of said city in accordance with the provisions of chapter one hundred and three of the laws of nineteen hundred and five. When no such contract is in force the health officer of the city shall be the city physician and shall attend the indigent sick or injured of said city, and shall be entitled to not more than one hundred dollars per year for such services, in addition to his salary as health officer.

TITLE IX.

DEPARTMENT OF PUBLIC INSTRUCTION.

Section 150. City, permanent school district.
151. Board of education.
152. District board continued a city board; succession to property and obligations.
153. Superintendent of schools.
154. General powers and duties of the president.

Section 155. Clerk and his general duties.
156. General powers of the board of education.
157. Powers of board of education to raise tax for support of schools.
158. Payment of funds to chamberlain.
159. Powers of board of education to purchase sites or additions to any site or erect or enlarge any school building.
160. Annual report of board of education.
161. The commissioner of education to apportion state moneys.
162. Common council shall pass ordinance for protection of school property.
163. Filling vacancies.
164. Report of superintendent of schools.
165. District a union free school district.
166. School district adjoining city limits.

§ 150. **City, permanent school district.**— The said city shall form a permanent school district and shall not be subject to alteration by the district school commissioner of common schools. Such district shall be entitled to all the rights, powers, privileges, public moneys and other benefits conferred upon school districts by law or other state authority, and shall, except as otherwise provided in this act, be subject to all the rules, regulations, powers of inspection and superintendence prescribed by law applicable to school districts in cities.

§ 151. **Board of education.**— The affairs of said school district of the city of Oneonta shall be managed by a board of six members, to be appointed in the manner provided in this act, which board shall be known and designated as the "board of education of the city of Oneonta." Said board and its successors shall possess all the powers conferred, and discharge all the duties imposed by this act, or by any general law of this state relating to school districts in cities or relating to boards of education of such districts, and not inconsistent with the provisions of this act.

§ 152. **District board continued as city board; succession to property and obligations.**— The present members of the board of education of union free school district number five of the town of Oneonta, New York, shall constitute the board of education of said city and shall be members of such board until their suc-

cessors are appointed and qualified as provided in this act. The title to all real and personal property now belonging to said union free school district and the title to all other school property, either real or personal, that shall be located within the limits of said city is hereby vested in the board of education of the city of Oneonta, and all moneys and funds belonging to school districts numbers five and eleven shall be paid over and delivered to the chamberlain of said city and credited by him to the school fund of said city. All the rights, powers, privileges, contracts, obligations and liabilities of said school districts are hereby transferred to, vested in and imposed upon said board of education of the city of Oneonta as hereby created; and the rights and privileges of all persons that may have arisen or accrued prior to the passage of this act shall remain and be enforced by or against the board of education of the city of Oneonta, and its successors, in the same manner and with like effect as the same might have been enforced by or against the board of education of said school districts, if this act had not been passed; subject, however, to the provisions of this act.

§ 153. **Superintendent of schools.**— The said board of education shall annually appoint a superintendent of schools for the term of one year; such superintendent shall be under the direction of said board of education, which shall prescribe his powers and duties; he shall be paid from the teachers' fund a salary, to be fixed by the board of education. Whenever such superintendent shall be appointed, the said school district shall be entitled to the benefits of section five of title two of article one of chapter five hundred and fifty-six of the laws of eighteen hundred and ninety-four.

§ 154. **General powers and duties of president.**— The president of the board of education shall preside over meetings of the board when present, and perform such executive acts and duties as is required by this act and general laws, and such other lawful business as shall be given him or her in charge by said board.

§ 155. **Clerk and his general duties.**— The superintendent of schools shall be clerk of the board of education and shall act as secretary and keep the minutes of the said board, and shall perform such other duties as may be required by this act and the general school laws of the state and such other duties as the board may prescribe.

§ 156. **General powers of the board of education.**— Subject to the provisions of this act and of the general consolidated school laws, the board of education of the city of Oneonta shall have power and it shall be its duty:

1. To establish and organize in said city such and so many free schools as said board shall deem requisite and expedient, and to change or discontinue the same at its discretion.

2. To alter, improve and repair schoolhouses and appurtenances, as it may deem advisable.

3. To purchase, sell or exchange, improve and repair school apparatus, books, furniture and appendages and to defray the necessary expenses attending the same.

4. To have the custody and safe-keeping of the school buildings, lots, outhouses, books, furniture and appendages and to see that the ordinances and by-laws of said city in regard thereto are enforced, and any violation thereof punished.

5. To contract with and employ all necessary teachers for the schools of the city under such conditions, rules and regulations as may be established by the board, provided that such rules and regulations are in accord with the general school laws of the state and the rules and regulations established by the department of public instruction of the state.

6. To pay the salaries of superintendent of schools and teachers out of any moneys appropriated or provided by law for that purpose.

7. To defray the necessary expenses of the board and district, including the wages of janitors and other assistants and employees and incidental expenses.

8. To expend all moneys, raised by virtue of this act, for purchasing sites, erecting or enlarging schoolhouses, or for other purposes, in such a manner as may be deemed advisable but only for the purposes for which the same was raised.

9. To license, upon the recommendation of the superintendent of schools of said city, all teachers employed in the schools of the city, in the same manner and with like effect in said city as school commissioners of counties, and to fix the grade of state license of teachers that shall be accepted as the minimum requirement for teachers in said city.

10. To take and appropriate lands and other real property within said city for school purposes, upon making compensation therefor and in the same manner and under the same proceedings

as prescribed in this act, and as conferred upon the board of public works for opening of streets and highways.

11. To have to the exclusion of all boards and officers, except the commissioner of education and the regents of the university of this state, the entire supervision and management of the schools of said city; from time to time, to adopt, alter, modify or repeal, as it may deem expedient, rules and regulations for its organization, government, and instruction for the reception of pupils and their transfer from one schoolroom or schoolhouse to another; for their advancement from class to class as their degree of scholarship shall warrant, and generally to promote the good order, efficiency and prosperity of all the schools of the city.

12. To allow the children or persons nonresident within the city to attend any of the schools therein under the control of the said board upon such terms as said board may by resolution prescribe.

13. To establish and maintain a city school library and provide suitable rooms for the use of the same; to exercise the same discretion as to the disposition of the moneys provided by law for the purchase of libraries as is conferred upon the inhabitants of school districts.

14. Other than as provided by this act, to exercise all the powers conferred upon the inhabitants of school districts at school district meetings.

15. Other than as provided in this act to exercise all the powers conferred and all the duties imposed by the general laws of the state applicable to boards of education in cities. The records of the proceedings of said board, or a transcript thereof, certified by its president and clerk, shall be received in all courts or places as prima facie evidence of the facts therein stated.

§ 157. **Powers of board of education to raise tax for support of schools.**— On or before the fifteenth day of July in each year, the said board of education shall prepare a statement of such sums of money as it shall deem necessary during the fiscal year, which for school and library purposes only shall commence with the first day of August next ensuing, for each of the following purposes:

1. For wages of superintendent and teachers, after applying such of the public school and other moneys as may be applicable thereto.

2. For the maintenance of a high school, and the payment of the teachers thereof after applying such of the public school and other moneys as may be applicable thereto.

3. For the repair of schoolhouses, outhouses and grounds, with the appendages and appurtenances.

4. For the purchase, repair or improvement of school apparatus, books, furniture and fixtures.

5. For the purchase of fuel, water, telephone service and lights, to pay contingent expenses of the district, including salaries of janitors, assistants, employees and incidental expenses.

6. For the purpose of paying the interest or principal upon any or all school bonds that may have heretofore been issued by said school districts or either of them, or that may hereafter be issued for school purposes by the common council, and also to pay such other lawful indebtedness as may be incurred for school purposes. Before the meeting of the board of education at which the aforesaid statement is prepared, the said board of education shall give to the mayor official notice thereof and the mayor shall attend said meeting and be accorded the right of inquiry into all the items of said statement and all the privileges in said meeting of the members of said board, except the privilege of voting. Whenever the board of education shall finally have determined on the statement of expenses itemized as heretofore indicated, it shall present the same to the mayor or acting mayor of the city of Oneonta. If the mayor or acting mayor approves such statement he shall sign it, and immediately file the same with the city clerk; if he does not approve any item therein he shall within five days return the statement with his objections indorsed thereon or annexed thereto to the president of the board of education. Said board shall then proceed to reconsider such statement, and if two-thirds of the members then in office agree to sustain the statement as made, it shall stand as if it had been approved by the mayor, and shall be immediately filed with the city clerk. If two-thirds of the members of said board do not agree to sustain the statement as made, it shall be modified so as to conform to the views expressed by the mayor in his objection and he shall then sign it and file it with the city clerk. But if he does not approve any item thereof he shall, within twenty-four hours, return the same with his objections as before. The board of education shall continue to present statements as aforesaid until the mayor's approval is obtained or until two-thirds of the

members of said board agree to pass the same over his objections, and said statement when thus approved or passed shall be filed with the city clerk. If the mayor or acting mayor fails to sign a statement of moneys required as herein provided or fails to return, within five days after its submission, said statement with his objections thereto, to the board of education said statement shall be filed with the city clerk in the same manner as if it had been approved. When such statement is filed with the city clerk, the common council of said city shall then levy as an annual school tax for that year the amount specified in said statement and the same shall be collected by the city chamberlain under the same terms as other taxes, who shall credit the same to the general school fund of the board of education.

§ 158. **Payment of funds to chamberlain.**— All public moneys or public funds belonging or appropriated to the use of said school district number five of the town of Oneonta shall be paid to the chamberlain of the said city, who shall keep the same separate from the general funds of the city and shall credit to the school funds the moneys or property belonging thereto. The board of education shall disburse all the school funds of said district by orders upon the chamberlain signed by the president; said orders shall be numbered consecutively and shall specify the purpose for which they are drawn and the persons to whom payable. Upon request from said board, the chamberlain shall certify, from time to time, the balance remaining to be collected by or paid to the city chamberlain for school purposes; it shall not be lawful for the city chamberlain to apply such moneys or any part thereof to any other purpose or object.

§ 159. **Powers of board of education to purchase sites, or addition to any site or erect or enlarge any school building.**—Whenever the board of education shall resolve by an affirmative vote of two-thirds of its members that it is necessary to purchase a site or addition to any site, or erect any school building or enlarge any school building already erected, it shall specify in such resolution the ward within which such site is to be purchased or building erected or enlarged and the particular sum required for each separately. The board of education shall then deliver a certified copy of such resolution to the mayor who shall, within thirty days after the receipt of said resolution, call a special election of the electors of said city, to vote for or against such appropriations as the proposed expenditure will impose. Said election shall be

conducted and the result declared and certified pursuant to the provisions and manner prescribed for conducting special elections provided elsewhere in this act. In case a majority of the votes cast be in favor of any said appropriations, the common council shall borrow, upon the faith and credit of said city, the aggregate of the items having such majority, or any part thereof, at any time before and until the same can be provided for according to law. The common council shall issue bonds or other evidence of indebtedness in such forms as it may prescribe at an annual rate of interest not exceeding four and one-half (4½) per centum, and payable at such times and in such amounts as the common council shall determine. Said bonds or any part thereof may be sold by the common council in such manner as it may deem best, but at not less than the par value thereof. The board of education, after completing the work or other objects for which said money may have been raised, may apply any unexpended balance that may remain to any object authorized or contemplated by this act.

§ 160. **Annual report of board of education.**— It shall be the duty of the board of education, on or before the first day of August in each year, to make to the common council of the city a detailed report of the manner in which it shall have expended the money provided for and appropriated to school purposes from any source during the last fiscal year of the said board of education; and such report shall be published by the common council in connection with, and as a part of, the annual report of the financial transactions of the city, which they are required by law to have printed and circulated. Said board of education shall also make report to the commissioner of education of the state, and such reports shall be made in the manner and at such times as he may direct.

§ 161. **State commissioner of education to apportion state moneys.**— It shall be the duty of the commissioner of education of this state to apportion, for the use of the said board of education of the city of Oneonta, such portions of the school, school library and other public money, as it shall be entitled to by its annual report, in the same manner in which such moneys are apportioned to cities, and the amounts to which it shall be so entitled shall be certified to the county treasurer of Otsego county. The said county treasurer of Otsego county shall pay over to the city chamberlain of the city of Oneonta, for the

use of said board of education of said city, such proportion of the school, school library and other public money as may be apportioned by law or by the commissioner of education of the state to the board of education of the city of Oneonta for teachers' wages, school library and other school purposes.

§ 162. **Common council shall pass ordinances for protection of school property.**— The common council of the city of Oneonta shall have the power, and it shall be its duty, to pass such ordinances and by-laws as the board of education of said city shall report necessary for protection, safe-keeping, care and preservation of the school buildings and other school property of said district, and to impose such penalties for the violation of the same as it shall deem proper.

§ 163. **Filling vacancies.**— All vacancies in the board of education, occasioned by the resignation, refusal to serve, death or removal of any of its members, shall be filled for the unexpired term by appointment by the mayor.

§ 164. **Report of superintendent of schools.**— The superintendent of schools of the city of Oneonta shall confer with and act under the direction of the board of education of said city, in the performance of his duties. He shall, subject to the direction of said board, have entire control and supervision of the public schools in said city and of the teachers employed therein and shall on or before the first day of July in each year, or at such other time or times, as shall be required by said board, report in writing to the board of education on the following subjects:

1. The whole number of schools within the jurisdiction of the board of education, their cleanliness and their sanitary condition.

2. The repairs or alterations, if any, that are necessary for each of said schools.

3. The condition of the school furniture, apparatus and books in the several schools, and the repairs and additions thereto that may be necessary.

4. The number of teachers employed in the several schools, their grade of work, and their efficiency, with suggestions as to the increase or decrease in the number thereof.

5. The number of pupils registered at each school, the average daily attendance and also the number of pupils enrolled in each grade in the several schools.

6. Such changes in the organization and curriculum of any or all of the schools as he may deem advisable.

7. Such other information in relation to the city schools as may be of interest to the people of Oneonta.

§ 165. **District a union free school.**— The territory within the limits of the city of Oneonta shall be deemed and is hereby declared to be a union free school district under the laws of this state relating to public instruction. All provisions of law, not inconsistent with the provisions of this act, applicable to school districts whose limits correspond with any incorporated city, and the board of education therein, and the corporate authority of such cities are made applicable to the school district hereby established, and to the board of education thereof, and to the corporate authorities of the city of Oneonta.

§ 166. **School districts adjoining city limits.**— The remaining portion of said common school district number eleven, part of which is by this act included within the limits of the city of Oneonta, shall remain a common school district and shall be designated by the same number as heretofore, and shall be entitled to the public moneys, including the district quota, and shall have and enjoy all the rights and privileges and shall be subject to the liabilities pertaining to common school districts. The board of trustees, or, if there shall be but one trustee, the sole trustee of said district may contract with the board of education of the city of Oneonta to furnish tuition and other school advantages to the school children of said district in the schools of said city. Said tuition and school advantages shall be provided for a sum which shall not be less than the public school moneys received by said district, and said sum shall not be so great as to require a larger ratio of taxation in said common school district than is required in said city for school purposes.

TITLE X.

BOARD OF HEALTH.

Section 170. President of board.
171. Health officer.
172. Powers and duties of board.
173. Existing rules continued.

§ 170. **President of board.**— The mayor of said city shall be the president of the board of health and said board shall be organized under the public health law of the state.

§ 171. **Health officer.**— The said board shall appoint a competent physician, not one of its members, health officer of the city who shall be under the direction of said board of health and shall perform such duties as may be required by it, not inconsistent with the provisions of this act and the general laws of the state. Said health officer shall be entitled to receive two hundred dollars annually for services as such officer.

§ 172. **Powers and duties of board.**— The board of health and the members thereof shall have all the powers and be charged with all the duties and responsibilities conferred and imposed upon local boards of health and the members thereof by the general laws of the state, so far as the same pertain to cities, except as herein otherwise provided.

§ 173. **Existing rules continued.**— The existing rules and regulations of the board of health of the village of Oneonta shall continue in force in the city of Oneonta the same as if duly adopted and published by the board of health of said city, subject to the provisions of this act, and of the general law, until modified or repealed.

TITLE XI.

ASSESSMENT AND TAXATION.

Section 180. Assessment of taxes.
181. Record of transfers.
182. Completion of the roll.
183. Review of assessment.
184. Equalization and levy for state and county taxes.
185. Levy of taxes by common council; tax rolls.
186. Issue of tax roll and warrant to chamberlain.
187. Notice of receiving taxes.
188. Tax receipts.
189. Notice of unpaid taxes and demand of payment.
190. Collection of tax by sale of personal property.
191. Collection of tax by civil action.
192. Proceeding in case of failure to collect tax on warrant.
193. Sale of land for unpaid taxes.
194. Notice of sale of land for taxes.
195. Manner of conducting sale of land for taxes.
196. Disposition of proceeds of sale.
197. Redemption of lands.

Section 198. Notice of redemption.
199. Conveyance of real estate sold for taxes.
200. Settlement by chamberlain for taxes collected.
201. Power of common council as to void and erroneous assessments.
202. Collection of local assessments.

§ 180. **Assessment of taxes.**— The assessors shall, in compliance with section forty-five of this act, in each year prepare an assessment roll of the persons and property taxable within the city, in the same manner and form as is required by law for the preparation of town assessment rolls, except as modified by this act. In the assessment of any land in said city for any purpose, it shall be sufficient to state the name of one of the owners or occupants of said land, and also the street and number of any building thereon; but if the land be vacant or the building thereon not numbered then the name of the street on which it fronts shall be given. In case no inhabited building is on the land, the owner may be designated as unknown. No error in the name of the owner or occupant shall invalidate the assessment. Only one assessment shall be made in each year for all the taxes levied within the city during that year.

§ 181. **Record of transfers.**— The clerk of Otsego county shall make a memorandum of each transfer, hereafter recorded in his office, of any realty within the limits of said city and shall deliver the same to the said assessors, during the last week in each July and at such other times as they may request. Such memorandum shall contain the names of the grantor and grantee and such description as will identify the location of the property. Said clerk shall be entitled to charge each person leaving at his office such an instrument for record the sum of five cents for making such memorandum.

§ 182. **Completion of roll.**— The assessors on the first day of August in each year shall complete such assessment roll and shall file the same with the city clerk and shall give notice for fifteen days, by posting such notice in three public places in the city, and by publication thereof in the official newspapers of the city, once in each week during said time, that such roll is completed and filed, and that all persons interested may examine the same at the city clerk's office, and that also commencing on the first secular day after August fifteenth next ensuing, at a place speci-

fied in such notice, the board of review will sit to review the same for a period of seven days.

§ 183. **Review of assessment.**— The assessors shall constitute a board of review. They shall meet at the time and place specified in the notice mentioned in section one hundred and eighty-two of this act, and review the assessment. Their sessions shall not aggregate more than seven days nor be continued beyond the twenty-ninth day of August. During the time the assessors review any tax or assessment they shall have the power to add or insert in such assessment roll any property liable to assessment and the valuation thereof which may have been omitted from such roll, upon giving personal notice to the owner of such property or to his agent at least two days prior to adding the same. Except as modified by this act, the board of review shall have all the powers given by the tax law of the state of New York to assessors sitting to hear complaints in relation to assessments, and the proceedings in relation thereto shall be the same as provided by the tax law of the state. Any person assessed upon the assessment roll, claiming to be aggrieved by any assessment for property therein, may review the same in manner provided by article eleven of the tax law. On or before the first day of September the corrected assessment roll, together with their minutes and also a copy of such roll, shall be filed in the office of the city clerk.

§ 184. **Equalization and levy for state and county taxes.**— The city clerk shall certify said roll or another copy under the seal of the city, and deliver it to the chairman or clerk of the board of supervisors of the county of Otsego, at its next annual meeting. The board of supervisors shall in each year equalize the assessments within the city of Oneonta with the assessments of the towns in said county, in same manner as the assessments are required to be equalized between such towns. The board of supervisors shall not cause the state and county tax apportioned to said city to be spread upon any tax roll of property within the city, but shall, by resolution, ascertain and direct the amount of tax to be levied in the city for state and county purposes, and shall, on or before the fifteenth day of December in each year, certify such resolution under the hands of the chairman and the clerk of the board of supervisors to the common council of the city, and file such resolution with the city clerk, and the city clerk shall thereupon extend and apportion such tax on the as-

sessment roll, levied as hereinafter provided, and no other extension and apportionment of such state and county taxes need be made.

§ 185. **Levy of taxes by common council; tax rolls.**— The common council must annually cause to be levied a tax upon all taxable property, real and personal, in the city, according to the valuation upon the assessment roll for the current year corrected as aforesaid:

1. Between the first and fifteenth days of September the amount necessary to provide for the school and library funds.

2. During the month of December the amount of taxes certified to the common council of the city by the board of supervisors to be assessed upon the city.

3. During the month of December the amount of all judgments from which appeal has not been taken and all interest and any installment of principal falling due upon the bonds or other permanent debt of the city, other than school bonds, which shall be kept in a separate fund to be called the public debt fund.

4. During the month of December the amount necessary to defray all other expenses for the next fiscal year as authorized and provided in sections fifty-three and fifty-four of this act.

§ 186. **Issue of tax roll and warrant to chamberlain.**— The city clerk, under the direction of the common council, shall immediately upon the delivery of the assessment roll to him extend and apportion so much of the city tax as may be required by the school and library funds on the assessment roll delivered to him in each year, and shall forthwith file the same in his office, and shall make one copy of the same with the tax so extended and apportioned, and shall certify such copy to be correct duplicate city roll of school and library taxes; such roll shall then and on or before the twenty-fifth day of September, or as soon thereafter as practicable, be delivered to the chamberlain of the city with a warrant annexed, under the seal of the city, commanding him to receive, levy and collect the several sums in the roll specified as assessed against the person or property therein mentioned or described, with such percentage of penalty and interest as is in this act provided, in the manner provided by law for the collection and levying of county taxes by town collectors and with the additional powers conferred by this act. The city clerk shall likewise, on or before January tenth, perform the same duties relative to all other taxes named in section one hundred and

eighty-five of this act. From time of the receipt of a tax roll and warrant by the chamberlain, all taxes assessed and levied upon any real estate shall be a lien upon such real estate for the amount thereof with percentage and interest until the same shall be fully paid.

§ 187. **Notice of receiving taxes.**— Immediately upon the delivery of a city roll and warrant to the chamberlain he shall publish a notice in the official newspapers of the city, that he will attend at his office with said roll and warrant for thirty days next after the first publication of said notice, during the hours named in section thirty-seven of this act, to receive taxes, and it shall be his duty to attend accordingly. On all taxes or assessments paid within thirty days after the first publication of the notice the chamberlain shall collect one per centum additional. On all taxes or assessments remaining unpaid after the expiration of such thirty days the chamberlain shall collect five per centum additional, and all remaining unpaid after the expiration of sixty days from such first publication shall bear, and there shall be collected thereon, in addition to said five per centum, interest at the rate of one per centum per month from the expiration of said sixty days, which percentage and interest shall belong to the city.

§ 188. **Tax receipts.**— Immediately upon receiving any tax the chamberlain shall enter in a column prepared for the purpose and opposite the names of the persons or corporation paying the same the fact of payment and the date thereof, and shall give the person paying the same a receipt therefor. Any person may pay any one or more taxes or assessments upon his property, leaving others unpaid to be enforced in the manner provided by this act. All receipts issued by the chamberlain for taxes paid to him shall be numbered consecutively, commencing with the number one on the first receipt issued for taxes for any one year, and he shall not receipt for more than one year's taxes on the same property in one tax receipt; but shall use a separate and distinct series of numbers, or receipts, issued for each set of the taxes of each year for which the same is levied and assessed. The city clerk shall cause all tax receipts to be printed and numbered and firmly bound together in book form, and to be in duplicate, and each duplicate to bear the same number.

§ 189. **Notice of unpaid taxes and demand of payment.**— If any such tax shall remain unpaid after the expiration of thirty

days from the first publication of the notice specified in section one hundred and eighty-six of this title, the chamberlain shall forthwith serve or cause to be served upon the persons against whom such tax remains charged a written notice, requiring him to pay the same to the chamberlain within ten days from the service of such notice. Such notice may be served upon any such person personally, or by leaving at his residence in said city, or depositing in the post-office in said city, properly enclosed in a postpaid wrapper, directed to him at his reputed place of residence. It shall not be necessary to make any other demand for payment of said tax.

§ 190. **Collection of tax by sale of personal property.**— If any person shall neglect or refuse to pay any tax charged against him, within the ten days above provided, the chamberlain shall forthwith issue his warrant under his hand and the seal of the city and addressed to any constable or police officer of the city, commanding such officer to levy upon any personal property in the city or in the county of Otsego, belonging to or in the possession of the person whose tax remains unpaid, and cause the same to be sold at public auction for the payment of said tax, and the fees and expenses of collection; and no claim of property to be made thereto by any other person shall be available to prevent such sale. The officer to whom such warrant shall be delivered shall proceed as therein directed. Public notice of the time and place of sale of the property to be sold shall be given by posting the same in at least three public places in the city at least six days previous thereto. The officer conducting such sale shall return the proceeds thereof together with his warrant to the chamberlain within fifteen days after the same shall have been issued to him. He shall be entitled to charge the same fee as constables are entitled to receive for collecting money by virtue of execution. If the proceeds of such sale shall be more than the amount of such tax, the fees of collection and the expenses of sale, the surplus shall be paid to the person against whom the tax is issued, unless his right thereto is disputed by some other person, in which case such surplus shall remain in the hands of the chamberlain, without liability on his part or on that of the city for costs, until the rights of the parties thereto shall be determined by due course of law.

§ 191. **Collection of tax by civil action.**— The chamberlain is hereby authorized and empowered to recover by action in any

court of competent jurisdiction, and in the corporate name of the city, the amount of every tax remaining unpaid after the expiration of ninety days, with the additions and fees unpaid thereon, and to recover judgment therefor with twelve per centum interest thereon and the costs and expenses of such action. A transcript of the judgment obtained in such action may be filed, and such judgment docketed in the office of the clerk of Otsego county, and it shall, however small the amount, thereupon become a judgment of the county court of said county, and a lien to the amount of said judgment, upon all real estate of the judgment debtor, situate in said county, and shall have the same priority over any other lien or encumbrance upon, or transfer of the property charged with the tax, for which such action was brought as the lien of the tax sought to be recovered in said action. Upon any judgment recovered for said unpaid taxes and docketed in said county clerk's office execution may be issued and collected as provided by law and all the provisions of law in reference to sale and redemption of real estate on execution, or to proceedings supplementary to executions, shall apply to sales, redemptions or such proceedings as may be had under this act.

§ 192. **Proceeding in case of failure to collect tax on warrant.**—On or before the thirtieth day of June next after any tax shall have been imposed upon any real estate in said county, the chamberlain shall make and deliver to the assessors a transcript of any and all such taxes which remain unpaid, and it shall be the duty of the assessors, on or before the thirtieth day of July thereafter, to make and deliver to the chamberlain a statement containing a brief general description of the location, boundary and estimated quantity of each parcel of said lands, and in case any such lands shall have been erroneously assessed, then it shall be the duty of such officer to make and include in said statement a correct assessment of the same valuation as before, and such corrected assessment and the amount of taxes levied upon said lands shall be as valid and effectual for all purposes as though they had originally been corrected.

§ 193. **Sale of land for unpaid taxes.**—Whenever any such tax, penalty or interest, or any part of either of them, shall remain unpaid on the fifteenth day of August, the chamberlain shall proceed to advertise and sell the lands upon which the same was imposed, for the payment of such tax, penalty or interest, or the part remaining unpaid, and the expense of such sale, as herein-

after prescribed, shall also be a charge upon such lands. The chamberlain shall be entitled to and collect, for the use of the city, one dollar for each parcel advertised, but not sold, and two dollars for each parcel sold.

§ 194. **Notice of the sale of land for taxes.**— The chamberlain shall cause to be published a notice of such sale containing a description of the lands to be sold and specifying the time and place of sale, in the official newspapers of the city, once a week for at least six successive weeks, immediately prior to day of sale, and shall also post such notice of sale in at least three public places in the city at least forty-two days before the day of sale. On the day named the chamberlain shall commence the sale of such lands, and shall continue such sale from day to day until the whole thereof shall be sold. Before the sale the owner of any parcel of land, or his representatives, or any person interested therein, may avoid the sale thereof by paying the tax or taxes to the chamberlain, with all accrued interest, fees, additions and expenses.

§ 195. **Manner of conducting sale of land for taxes.**— Each parcel shall be sold at public auction to the highest bidder. The purchasers on such sale shall pay the amounts of their respective bids to the chamberlain immediately after each parcel shall be struck off. In case a purchaser shall fail to pay the amount of his bid, as herein prescribed, the chamberlain shall forthwith offer the parcel for sale again and proceed as though it had not been struck off. Should there be no bid of the amount due on any lot or parcel of land to be sold, then the chamberlain shall bid in the same for the city, and the city is hereby authorized to acquire said parcel and the common council shall have the care and control of all such parcels and may lease or sell and convey the same. As soon as practicable after the sale, the chamberlain shall prepare and execute in duplicate, as to the parcel sold, a certificate of such sale, describing the parcel purchased by a brief general description of the location, boundary and estimated quantity thereof, and stating the fact of the sale, the name of the purchaser, the sum paid therefor, the amount due thereon at the time of the sale, the name of the person or persons against whom such tax was assessed, and the name of the reputed owner thereof. One of said duplicates shall be delivered to the purchaser, or in case the parcel was struck off to the city then it shall be retained by the chamberlain. The chamberlain shall deliver the other

duplicate certificate to the clerk of the county of Otsego, who shall file said certificate in his office and record the same in a book to be kept in the said clerk's office for that purpose, and shall index the certificate in the name of the person to whom the parcel was assessed, the name of the reputed owner thereof and in the name of the purchaser in the same book and manner as deeds are required by law to be indexed. The county clerk shall be entitled to receive a fee of fifty cents for each certificate so filed and recorded which fee shall be paid by the chamberlain and shall be a part of the expenses of the sale of the parcel. If from any cause the chamberlain shall be unable to attend at the time and place of sale, the city clerk of said city may conduct the sale with the same force and effect as though made by the chamberlain.

§ 196. **Disposition of proceeds of sale.**— The proceeds of the sale of each parcel, other than those struck off to the city, shall be applied to the payment of the expenses of the sale, as herein provided, and the extinguishment of the tax, penalty or interest for which it was sold, and if there shall be any residue, the chamberlain shall hold the same until the owner of the premises, at the time of such sale, shall redeem them from the sale as herein provided, and the chamberlain shall then pay such owner the said surplus. In all other cases the chamberlain shall hold the same until after the period of redemption shall have expired and then he shall pay such surplus to the person or persons entitled to receive the same, and the person or persons entitled thereto shall be ascertained in the same manner and by the same proceedings as in the case of surplus on statutory foreclosure of a mortgage on real estate. In case any taxes shall be assessed and levied upon real estate which has been sold for taxes, subsequent to such sale, and before the redemption thereof or conveyance thereof to the purchaser, and the same shall be unpaid, the chamberlain may deduct the amount thereof from any surplus in his hands of the sum bid for the same, if there be any surplus; otherwise, the purchaser shall pay the same before he shall receive his conveyance of the premises.

§ 197. **Redemption of lands.**— The owner of, or any person interested in or having a lien upon, any parcel or lot sold may redeem the same from such sale at any time within two years by paying to the chamberlain, for the use of the purchaser or his assigns, or, if the same shall have been redeemed by any person

other than the owner thereof, then for the use of such person, the sum mentioned in the certificate as having been bid for the premises with interest thereon at the rate of ten per centum per annum from the day of sale, together with any tax or assessment upon said parcel, or any part thereof that the said purchaser or assigns or persons shall have paid between the day of sale and the day of redemption, with interest at the rate of ten per centum per annum upon such tax or assessment from the time of payment. The time during which such redemption may be made shall not commence to run against infants or incompetent persons until the termination of their disability. In case of the redemption of any land sold for taxes, as herein provided, by the person who was the owner thereof at the time of the sale, the chamberlain shall give such owner a receipt for the amount paid by him to effect such redemption, and on the production thereof by such owner to him, the county clerk shall cancel the certificate of sale by a proper entry at the foot of the record of such certificate in his office.

(b) Lien of mortgage; when not affected by tax sale.— The lien of a mortgage, duly recorded or registered at the time of the sale of lands for nonpayment of any tax or assessment thereon, shall not be destroyed, or in any manner affected, except as provided in this section. The purchaser at any such sale shall give to the mortgagee a written notice of such sale within six months from the expiration of the time to redeem, requiring him to pay the amount of purchase money, with interest at the rate allowed by law in case of redemption by occupants, within six months after giving the notice. Such notice may be given either personally or in the manner required by law in respect to notices of nonacceptance or nonpayment of notes or bills of exchange, and a notarial certificate thereof shall be presumptive evidence of the fact, that may be recorded in the county in which the mortgage was recorded, in the same manner and with the same effect as a deed or other evidence of title of real property. If the mortgagee fails to comply with the requirements of such notice, within the time therein specified, the lien of such mortgage, upon the lands so sold, shall thereby be destroyed.

(c) Redemption by mortgagee.— The holder of any mortgage which is duly recorded at the time of the sale may, at any time after the sale of all or any part of the mortgaged premises for

unpaid taxes, and before the expiration of six months from the giving of the notice mentioned in the preceding section, redeem the premises so sold, or any part thereof from such sale. Such redemption shall be made by filing with the city clerk a written description of his mortgage and paying to him for the use of the purchaser, his legal representatives, heirs or assigns, the sum hereinbefore required to be paid for the purpose of redeeming such lot, together with interest at the rate allowed by this article, and all costs and expenses which have accrued thereon. The holder of such mortgage shall have a lien upon the premises redeemed for the amount so paid with interest from the time of payment in like manner as if it had been included in the mortgage, which sum, in case of foreclosure of his mortgage, may be added thereto and collected therewith.

§ 198. **Notice of redemption.**— At least three months before the expiration of the time of the final redemption of any parcels or lots so sold, the chamberlain shall commence the publication of a notice of redemption from such sale, which shall show the year when the sale took place, and the last day for the redemption of the lands not already redeemed by the owners, without other or further description, and such notice shall be published at least twice in each of the said three months, in the official newspapers of the city. A copy of such notice shall be served personally on the owner or occupant of the lands, or, if unoccupied, posted on the premises, at least twenty days before the expiration of such time for final redemption. The publication and service of such notice shall bar and preclude any and all persons, except the purchaser on such sale, or his assigns, or the person finally redeeming, or a mortgagee entitled to be but not notified as required in the preceding section, from claiming any interest in or lien upon such lands or any part thereof, in case the said lands shall not be redeemed from such sale as hereinbefore provided.

§ 199. **Conveyance of real estate sold for taxes.**— If any parcel or lots sold shall not be redeemed as herein provided, the chamberlain, immediately after the expiration of the said two years, shall execute and deliver to the purchaser, his heirs or assigns, or to the city or its assigns, or to the person finally redeeming, as the case may be, a conveyance of the real estate so sold, which conveyance shall vest in the grantee an estate in fee, subject only to the liens, if any, of unpaid taxes or assessments thereon and subject to the provisions of section one hundred and

ninety-eight of this act. The chamberlain executing such conveyance shall be entitled to demand and receive from the grantee two dollars for preparing every such conveyance, but all purchases made for the city in any year shall be included in one conveyance, and no fee shall be charged therefor. Every such conveyance shall be executed and acknowledged by the chamberlain and such conveyance shall be conclusive evidence that the sale and subsequent proceedings were regular and according to law. Any such conveyance may be recorded in like manner and with like effect as any other conveyance of real estate. The said grantee or his assigns or the city or its assigns, as the case may be, shall be entitled to have and possess the granted lands from and after the execution of such conveyance, and may cause the occupants of such lands to be removed therefrom, and the possession thereof delivered to them, in the same manner and by the same proceedings as in the case of a tenant holding over after the expiration of his term without permission of his landlord.

§ 200. **Settlement by chamberlain for taxes collected.**— It shall be the duty of the chamberlain to pay over to the treasurer of Otsego county, at the end of each week during the period that the tax roll and warrant is in his hands, all moneys received by him for county and state taxes. He shall take duplicate receipts for each payment, one of which shall be immediately filed with the city clerk. Except as otherwise provided by this act, the chamberlain shall settle with the county treasurer for state and county taxes in the manner required by law of town collectors, and with the common council for city taxes and assessments in the same manner. Upon the final settlement with the county treasurer, the chamberlain may pay from the general fund of the city the amount of the uncollected state and county taxes in his hands for collection, and thereupon such taxes shall belong to the city of Oneonta. At the time of the delivering to him of the duplicate city roll and tax warrants, the chamberlain shall receipt for the same, and shall then be charged with the whole amount which he is thereby authorized to collect. He shall not be authorized to credit himself with any amount as unpaid on any warrant until he shall make and file with the city clerk an affidavit stating the amount unpaid and setting forth the reason in each case why such tax or assessment is or has not been collected. The common council may thereupon order and authorize said chamberlain to credit himself with the whole or any part of said tax or assess-

ment unpaid, and the chamberlain shall be credited only with such amount as the common council shall so order. Upon final settling with the county treasurer the chamberlain must show to the common council that he has duly settled with the county treasurer for state and county funds. The city clerk shall, on the delivery of the blank tax receipts to the chamberlain, charge the chamberlain with the number of receipts delivered, and the chamberlain shall immediately examine the numbering of the receipts and report to the city clerk any irregularities found therein. The chamberlain shall receipt to the city clerk therefor, and shall be held strictly accountable for all receipts found missing at regular settlements; also for detached receipts, including receipts, the duplicates of which do not show the entry of taxes. All irregularities in the issuance of receipts that render them worthless must be shown on the face of the original which must in no case be detached from the duplicate. At the time of each final settlement the chamberlain shall deliver to the city clerk all duplicated receipts issued by him and other receipts delivered and charged by the city clerk to him.

§ 201. **Power of common council as to void and erroneous assessments.**— The common council of the city may, in its discretion, release, discharge, remit or commute any portion of the taxes assessed or levied against any person or property for any error, irregularity or omission in the levying of said taxes, or in any of the proceedings relating to the same. In case any assessment shall remain unpaid on account of any irregularity, omission or error in any assessment authorized by this act, or the laws in force when such tax was levied, or in case of error in the description of lands or owners or occupants, the common council may in its discretion, or upon the application of any person interested, proceed to correct such irregularity, omission or error, or cancel, remit or commute such tax, or cause the amount so unpaid to be reassessed on the property, the assessment against which remains unpaid, or upon the owner or occupant thereof, and the common council are hereby authorized and empowered to make such reassessment upon giving ten days' personal notice thereof to the owner, agent or occupant of the property against which the amount remains so unpaid. They may direct the city chamberlain to correct any irregularity, omission or error, and such reassessment or correction shall have the same effect as if said assessment had been properly made.

But the common council shall not alter any valuation made by the assessors. Any omission to comply with the provisions of this act in making an assessment or levying a tax, or creating a lien, shall not render such assessment or the tax thereunder or the assessment made or lien created thereby void, but shall be treated as an irregularity merely and it shall be the duty of any and all courts in case it shall appear that such irregularity exists to direct the same to be corrected or amended or the omission supplied, if possible. In case any tax or assessment made, assessed or levied, under this act or which has heretofore been made, assessed or levied, or attempted to be made, assessed or levied, upon property situate within the limits of the village of Oneonta, either by the village of Oneonta or the board of trustees thereof, or by the town of Oneonta or the assessors thereof, or by the board of supervisors of the county of Otsego, shall be declared void, or have failed for want of jurisdiction or for any irregularity, mistake or inadvertence in levying or assessing the same, the common council shall have power, and it shall be their duty to cause the same to be reassessed in a proper manner. Any sum paid thereon shall be credited upon the tax so reassessed, and, if the sum paid shall exceed the amount so reassessed, the excess shall be refunded to the person entitled thereto.

§ 202. **Collection of local assessments.**—Whenever an assessment shall be ordered for local improvements, the assessment shall be made to resemble in form, as nearly as practicable, the tax list, and be provided with a column in which payments can be entered by the chamberlain. All provisions relating to the collection of taxes in this act shall be applicable to the collection of assessments mentioned in this act.

TITLE XII.

CITY COURT.

Section 210. City court.
211. Rooms and supplies.
212. Jurisdiction in civil actions and proceedings.
213. Not to take cognizance of certain actions.
214. Process, practice, appeals from judgments, et cetera.
215. Power to grant attachments.
216. Opening and vacating judgments.
217. Cost and fees; stenographer.

Section 218. Supplementary proceedings.
219. Punishment for contempt.
220. Appeals.
221. Jurisdiction in criminal cases.
222. Amount of fees, deposit of fees; account of criminal business; docket to be kept.
223. Acting city judge, designation of; compensation.
224. Police attorney.
225. Rules.

§ 210. **City court.**— There shall be a city court of civil and criminal jurisdiction. The city judge shall be the judge of the court. The court shall be open for the transaction of business each day in the year, except Sundays and legal holidays, and upon those days for such purposes as are provided by law. Said court shall have the same jurisdiction over the persons of defendants as is now possessed by justices' courts of towns pursuant to the provisions of section twenty-eight hundred and sixty-nine of the code of civil procedure, and for the purpose of conferring jurisdiction of the person the said city of Oneonta shall be deemed a town and said court a justice's court thereof. Said court is hereby given the power in any action or proceeding of which it has jurisdiction to send its processes and other mandates into any town of the county of Otsego for service or execution and to enforce obedience thereto with like power and authority as the county court.

§ 211. **Rooms and supplies.**— The common council of the city shall provide suitable rooms and properly furnish, heat and light the same for holding court therein; provide for furnishing the necessary blank books, stationery and other necessary articles for the use of said court; and provide for the payment of all necessary expenses of said court.

§ 212. **Jurisdiction in civil actions and proceedings.**— Except as limited by the next succeeding section, the city court shall have jurisdiction of the following civil actions and proceedings, to wit:

1. An action to recover damages upon or for breach of contract, express or implied, other than a promise to marry, when the sum claimed does not exceed five hundred dollars.

2. An action to recover damages for a personal injury, or an injury to property, where the sum claimed does not exceed five hundred dollars.

3. An action for a fine or penalty not exceeding five hundred dollars.

4. An action upon a judgment not exceeding five hundred dollars, rendered in said court or in any court of the state of local jurisdiction, not being a court of record.

5. An action to recover one or more chattels, with or without damages, for the taking, withholding or detention thereof, where the value of the chattels as stated in the affidavit of the plaintiff does not exceed the sum of five hundred dollars.

6. To render judgment upon the confession of the defendant where the amount confessed does not exceed the sum of one thousand dollars.

7. Summary proceedings under title two of chapter eighteen of the code of civil procedure, and the application for the removal of a person from real property in such proceedings, may be made to the city judge as is provided in section twenty-two hundred and thirty-four of the code of civil procedure, and the procedure before the city judge and in the city court shall be as is prescribed by said title.

8. An application for leave to refile a mechanic's lien.

9. Any other civil action or proceeding of which justices of the peace of towns have jurisdiction, including bastardy cases, in which cases the city judge shall sit as a court.

§ 213. **Not to take cognizance of certain actions.**— The city court shall not take cognizance of a civil action in either of the following cases:

1. Where the title to real property comes in question, as is prescribed in title three of chapter nineteen of the code of civil procedure, except as provided in section two hundred and forty-two of this act, and when such question arises, the pleadings and practice shall be the same as are provided by law for courts of justices of the peace in towns in regard thereto.

2. When the action is to recover damages for false imprisonment, libel, slander, criminal conversation, seduction or malicious prosecutions.

3. Where, in a matter of account, the sum total of all the accounts of both parties, proved to the satisfaction of the court, exceeds one thousand dollars.

4. Where the action is brought against an executor or an administrator as such, except where the amount of the claim does not exceed the sum of fifty dollars and the claim has been duly presented to the executor or administrator and rejected by him.

§ 214. **Process, practice, appeals from judgments, et cetera.**—The manner of commencing actions, process, service of the same, appearances, practice, pleadings and the proceedings in said court, in cases of attachment, order of arrest and replevin, and in regard to judgments by confession or otherwise, and appeals from judgments, offers to compromise, fees, costs and disbursements, and all other matters, shall, except as herein otherwise provided, be governed by the provisions of chapter nineteen of the code of civil procedure, in regard to courts of justices of the peace, including the provisions of chapter four hundred and fourteen of the laws of eighteen hundred and eighty-one, and the acts amendatory thereof, in relation to the services and making of verified pleadings in justices' courts. The judge of said court may, from time to time, make, alter and amend rules of practice not inconsistent with the provisions of law. The appearance of an attorney and counselor-at-law of the supreme court of this state, on behalf of any party, to an action or proceeding pending in said city court, may be made by filing with the judge of said court a notice of appearance, and shall have the same force and effect as if such appearance had been made in a proceeding pending in the supreme court. Any action or proceeding pending in said court may be discontinued by filing with the judge of said court a stipulation to that effect, signed by the parties or their attorneys, and by paying said judge all the fees of said court, and thereupon such action or proceeding shall be discontinued. The court shall have power in an action tried by a jury to direct a verdict and the judge shall have power to grant a new trial of the action or proceedings for any of the reasons specified in section nine hundred and ninety-nine of the code of civil procedure, upon such terms as may be just. Said court or judge shall have the same power as the supreme court, or the justices thereof, to entertain motions, make orders and grant relief to a party in any action or proceeding of which it has or has had jurisdiction, except where an appeal has been taken. If notice of a motion or any other proceeding before the court or judge thereof is necessary, it shall be served upon the party or his attorney at least five days before the time appointed for

the hearing, unless the court or judge thereof, upon an affidavit showing grounds therefor, makes an order to show cause why the order should not be granted, and in the order directs that service thereof upon a shorter notice shall be sufficient. A motion for a new trial upon the minutes must be made within five days after judgment is entered. Judgment upon the trial of an action on the merits must be rendered within ten days after the same has been finally submitted. Every action or proceeding brought in said court or before said judge shall be called at the time specified in the mandate or process by which it is commenced, or as soon thereafter as business will permit, and section twenty-eight hundred and ninety-three of the code of civil procedure shall not apply to such action or proceeding. Subject to the approval of the judge of the court an action or special proceeding after issue joined may be adjourned by the written stipulation of the parties or their attorneys, filed with the court.

§ 215. **Power to grant attachments.**— The city judge shall have the same authority and power to grant an attachment in a case wherein the defendant is a resident of or has its principal place of business within said city as is possessed by a county judge, provided in case the same be granted in an action pending in any court other than said city court, a part thereof be an order to show cause before the Otsego county judge or a justice of the supreme court within ten days, the time, place and judge being specified, why the attachment should not be vacated. The judge before whom said order is returnable shall have the right to grant costs of motion at time of his decision.

§ 216. **Opening and vacating judgments.**— The city court in civil cases shall have power to open and vacate any judgment rendered therein, upon such terms and conditions as it may deem just, within the time limited for an appeal therefrom, upon application of any party aggrieved thereby, and the city judge may make an order staying in the meantime proceedings upon such judgment until the hearing and decision of the motion therefor, and upon the service of such order upon the officer having the mandate for the enforcement of such judgment, proceedings for the enforcement thereof shall be stayed accordingly. Five days' notice in writing of the application to open or vacate such judgment must be given by the party making the same; and such

notice shall be served as is provided by law, for serving notices of appeal from judgment of a justice of the peace.

§ 217. **Costs and fees; stenographer.**— In all civil actions and proceedings brought in this court, the same costs and fees shall be paid, taxed and recovered as in action or proceedings before justices of the peace in towns. The court shall demand and receive of the moving party prepayment of all such fees, unless the party shall file an affidavit, in writing, showing to the satisfaction of the court that the action or proceeding is begun in good faith, and that the applicant is without means to pay such fees, in which case the judge may, in his discretion, issue the proper process, without charging the court fees, but shall in all cases require the applicant to pay in advance the fee of the constable for serving such process. In case such court and other fees are not prepaid at the close of the evidence the court shall demand the payment of the same by the plaintiff and if not forthwith paid may dismiss the action. All constable's fees received by the city judge shall be paid to the constable as soon as earned, and all other fees received by him as aforesaid shall belong to the city, and the city judge shall not, directly or indirectly, receive to his own use any fees or perquisites except his salary. Either party may, at the time of the joinder of issue, request the services of a stenographer to take the evidence and, upon the deposit of three dollars with the city judge, the latter shall, if convenient, or of his own motion without such request may procure the attendance of such stenographer at the time of the trial. Said stenographer shall be entitled to three dollars for each day of actual trial, to be added to the costs of the action and ten cents per page of typewritten legal cap for transcribing the minutes, when requested. In addition to such fees as may have been paid or incurred by the prevailing party he shall recover the amount he may have paid, if any, for the stenographer's per diem. Each party shall pay for such transcribed minutes as he may order. In case an appeal, where a new trial is not to be had in the appellate court, is taken from a judgment rendered in an action, wherein a stenographer has thus appeared, the fees for transcribing the minutes to be used as a part of the court's return shall be added to and constitute a part of the items to be paid and recovered as prescribed in sections three thousand and forty-seven and three thousand and sixty of the code of civil procedure. Such stenographer may be designated by said city judge as clerk of said city court

and may render, without compensation from the city, such clerical services as may be required by said court.

§ 218. **Supplementary proceedings.**— Proceedings supplementary to an execution against property, as provided for and regulated by articles one and two of title twelve of chapter seventeen of the code of civil procedure, may be instituted before the judge of this court. For this purpose the judge shall have all the powers conferred by law upon county judges, and appeals may be taken from an order granted therein in the same manner and to the same court as if the order appealed from had been granted by the county judge.

§ 219. **Punishment for contempt.**—The judge holding such court, while in session, shall have the same powers to preserve order and to punish for contempts committed in his presence as are possessed by judges of courts of record providing, however, that an appeal may be taken from an order, adjudging a person in contempt, to the county court in the same manner as an appeal from a judgment. Pending the determination of such an appeal, the person adjudged in contempt, if he shall be imprisoned, may be admitted to bail by the judge of said court or of the county court in such an amount, and by an undertaking, in such form and with such sureties, as shall be approved by such judge.

§ 220. **Appeals.**— Appeals may be taken from any judgment rendered in said court to the county court of Otsego county as prescribed in chapter nineteen of title eight of the code of civil procedure, and not otherwise; provided, where a judgment was rendered upon a trial by the court without a jury, the appeal may be taken upon questions of law or upon the facts, or upon both. Appeals may also be taken to the same court from an order granting or denying a motion for a new trial. Such appeal must be taken within five days of the making of the order appealed from. It shall be taken in the same manner as an appeal from a judgment, and all subsequent proceedings therein shall be conducted, as near as may be, in like manner as on such an appeal. The order of the appellate court shall be remitted to the city court to be enforced. For the purpose of an appeal to the supreme court, the order of the county court of Otsego county, made on an appeal from an order, shall be deemed an order of said county court, except that the order or judgment made in the supreme court shall be certified and remitted to the city court to be enforced. Upon an appeal from a judgment, the

appellate court upon its reversal may, in its discretion, order a new trial in the city court at a time designated, and in such a case the costs of the appeal shall be in the discretion of the appellate court, and any and all costs in the appellate and city courts may be by it directed to be included in any subsequent judgment in the same action in said city court. Any decision or opinion in writing, filed by the court or judge thereof, shall upon an appeal be returned as a part of the record of the proceedings.

§ 221. **Jurisdiction in criminal cases.**— The city judge in all criminal actions and proceedings and special proceedings of a criminal nature, for or on account of offenses committed, or charged to have been committed within the city, shall, except as herein otherwise provided, exclusively have all the jurisdiction and authority which a justice of the peace of a town would have, subject to the conditions imposed upon such justice except as herein otherwise provided, if such offenses were committed or charged to have been committed in the town, including bastardy proceedings, in which latter proceeding it shall not be necessary for the city judge to associate with himself any other magistrate. The city court is hereby constituted a court of special sessions and shall exclusively possess and exercise all the powers conferred upon courts of special sessions, and shall be subject, in the exercise of such powers, to all the provisions of law relating to courts of special sessions, as to all misdemeanors committed, or charged to have been committed within the city, except as herein otherwise provided. The city court shall have exclusive jurisdiction, except in a case theretofore presented to the grand jury, to try, and shall proceed, without allowing bail to the grand jury, and try all persons brought before it, accused of any crime of the grade of misdemeanor, committed or charged to have been committed within the corporate limits of said city, but any person entitled thereto shall have the right of trial by jury, to be drawn, summoned and sworn, as provided by title one, part five of the code of criminal procedure. Upon a conviction in said court for any misdemeanor of which the court has jurisdiction the same sentence may be imposed as might be imposed were such conviction had in a county court. The city judge and the city court shall also have exclusive jurisdiction to try and determine all questions of violation of any and all city ordinances, rules and regulations, and upon conviction to impose the punishment provided by law. All persons charged with being intoxicated under any statute in any street, park, alley or public place in

said city shall be tried summarily without a jury. The city judge or court shall have the right to sentence such prisoners convicted before him or in his court, as otherwise would be sent to the county jail, to imprisonment in the lock-up or other place provided by the common council of the city of Oneonta and shall also have the right to sentence such prisoner to labor. Except when a court of record out of which the process issues is in session bail may be given by a person charged with crime and may be fixed, taken and allowed by such city judge in all cases where the same may be fixed, taken and allowed by a county judge or justice of the supreme court, and the amount of such bail shall not be limited to the bail authorized to be fixed, taken and allowed by a justice of the peace.

§ 222. **Amount of fees, deposit of fees; account of criminal business; docket to be kept.**— The city judge shall keep an accurate account of all fees and fines received, from whom received, the time of receiving the same; and on the first business day of each month shall deposit with the chamberlain the amount thereof received in the last preceding month, with a detailed statement of the items thereof, certified by the affidavit of the city judge to the effect that the same is correct and that it embraces all moneys paid into said court or received by said city judge for fees and fines during the period covered by such statement. He shall also keep an account of all criminal business done by him, which by law is now made a charge upon the county of Otsego; and at the annual meeting of the board of supervisors the same shall be audited and ordered paid to the chamberlain of the city. He shall keep an account of all his proceedings and in his docket a complete and accurate record of all process issued from and returned to said court, and of all proceedings in every civil or criminal action, and all proceedings brought therein or before him, and decision of said court or judge. Such docket shall have the same force as evidence in courts of this state as dockets of justices of the peace in towns.

§ 223. **Acting city judge, designation of; compensation.**— The mayor shall designate in writing, to be filed with the city clerk, an attorney and counselor-at-law, residing within the city, who shall, only during sickness, absence from the city, disability or inability of the city judge to act, exercise in the place and stead of the city judge all the powers of said judge, including jurisdiction on cases then pending before the said city judge. Such designation shall terminate at the expiration of the term of

office of the then city judge or sooner at the option of the mayor. The mayor may revoke such designation and redesignate at will. The compensation of said acting city judge shall be the sum of three dollars for every day actually spent in the discharge of the duties provided for in this act. He shall present an itemized and verified bill for his said services monthly to the common council, who shall audit, allow and pay the same. The amount so paid to the acting city judge shall be deducted from the salary of the city judge, except that the latter shall be entitled to two weeks' vacation each year without loss of pay and except in cases where he is for good cause excused from duty by the mayor, which excuses shall in no one year exceed in the aggregate the period of fifteen days exclusive of Sundays.

§ 224. **Police attorney.**— There may be appointed at their discretion, by the common council, on the joint nomination of the mayor and the city judge, an attorney-at-law, to be known as "police attorney" to represent and act for the people in the conduct, prosecution and trial of all criminal actions and proceedings in the city court, whenever and as deemed necessary by such city judge. Such nomination shall designate the term for which such attorney shall act, not exceeding one year. Such attorney shall receive compensation for services so rendered, to be fixed by the common council upon information given by such city judge, which shall be paid at the end of each three months of the fiscal year, and shall not exceed the sum of one hundred and fifty dollars in any fiscal year.

§ 225. **Rules.**— The city judge may make rules not inconsistent with any laws of this state, to govern the practice and procedure of his court, and fixing the sum of money required as a preliminary deposit to secure prepayment of fees by parties in civil actions.

TITLE XIII.

DEPARTMENT OF LAW.

Section 230. The city attorney.
231. Salary.
232. Duties of city attorney.
233. Payment of moneys.
234. Compromise of suits.
235. Employment of counsel.
236. Judgments, report upon to common council.

§ 230. **The city attorney.**— The city attorney shall be the head of the department of law.

§ 231. **Salary.**— The salary of the city attorney shall be fixed by the common council, and he shall receive no fees or other compensation of any kind whatever.

§ 232. **Duties of city attorney.**— He shall be and act as the legal adviser of the common council and of the several boards, officers and departments of the city, and he shall appear for and protect the rights of and interests of the city in all actions, suits and proceedings, brought by and against any city officer, board or department; and such officers, boards or departments shall not employ other counsel at the expense of the city. No written contract providing for the payment of two hundred dollars or more, entered into by the city or any of its officers, boards or departments, shall be acted under until there shall be endorsed thereon by the city attorney a certificate to the effect that the city officer, board or department, which has executed the same on behalf of the city, had authority and power to make such contract, and that such contract is in proper form and properly executed. He shall attend to all the law business of the city, and discharge such other duties as may be prescribed in the ordinances of the common council.

§ 233. **Payment of moneys.**— He shall pay over at once to the chamberlain all moneys collected by him for or on behalf of the city, including fines and penalties; and shall annually, on the first Tuesday of January, file with the mayor of the city an inventory of all the books and property belonging to the city in his custody.

§ 234. **Compromise of suits.**— He shall, whenever he considers that the best interest of the city will be subserved thereby, enter into an agreement in writing subject to the approval of the common council, to compromise and settle any claim against the city, which agreement shall be reported to the common council at its next meeting, and when so approved, be and constitute a valid obligation against the city; and the amount therein provided to be paid shall, with interest thereon at six per centum from its date, be included in the next city tax budget; and when raised by tax be paid to the claimant. If, however, before the adoption of the city tax budget there shall be received by the chamberlain from any source any moneys not otherwise appro-

priated, the amount in the agreement provided to be paid shall be paid out of such moneys so received so far as they will satisfy the same.

§ 235. **Employment of counsel.**— The city attorney, with the written consent of the mayor, or when authorized by the common council, may employ counsel to assist him in the argument and conduct of important cases or proceedings in which the city is interested or a party.

§ 236. **Judgments, report upon to common council.**— The amount of any judgment recovered against the city and payable by it remaining unpaid, with the interest due thereon, in case no appeal is intended to be taken, or in case such judgment is finally affirmed on an appeal taken, shall be reported by the corporation counsel, immediately after the same shall have become payable, to the common council; and unless the common council issue bonds to raise the money for the payment of the same, such amount shall be raised in the next levy of taxes for the expenses of the city. Unless execution upon such judgments shall be stayed such judgments shall be paid out of the first moneys paid into the city treasury on account of such levy, in the order of their recovery. Until the money so raised shall be paid into the treasury, and payment of judgment refused, no execution shall issue against the city, unless the amount of such judgment shall not have been included in the tax levy; provided, nevertheless, if there be any money in the treasury to the credit of a fund derived from the revenues of the city other than by taxation and not otherwise appropriated sufficient to satisfy such judgments, the common council shall direct the payment therefrom of such judgments in the order of their recovery.

TITLE XIV.

ACTIONS BY AND AGAINST THE CITY.

Section 240. Limitation of action against the city.
241. No disqualification as judge or juror because of residence in city.
242. Civil actions to recover penalties.

§ 240. **Limitation of action against the city.**— All claims for injury to the person or property alleged to have been caused or sustained by reason of any defects in, want of repair, or obstruction of any of the highways, streets, alleys, sidewalks or cross-

walks, or public places of the city, shall be presented in writing to the common council within sixty days after the date of such alleged injury. Such statement in writing shall state the time, place, cause, nature and extent of the alleged injuries, as far as practicable, and shall be verified by an affidavit of the claimant or his agent or attorney to the effect that the same is true to his knowledge, or his best information and belief. The omission to present any such claim in the manner and within the time in this section provided shall be a bar to any action against this city therefor. No action shall be commenced against said city on any duly presented claim until after the expiration of three months from the presentation thereof, nor shall any such action be maintained against said city which shall not have been commenced within one year after the cause of action accrued. An action shall not be maintained for damages or injuries to the person sustained in consequence of the existence of snow or ice upon any sidewalk, crosswalk or street, unless written notice thereof relating to the particular place was actually given to the common council and there was a failure or neglect to cause such snow or ice to be removed, or the place otherwise made reasonably safe within a reasonable time after the receipt of such notice. All claims against the city for damages or injuries to person or property alleged to have been caused by the misfeasance or negligence of the city, or any of its officers or employees, shall be presented to the common council in writing, within sixty days after the happening of the accident or injury out of which the claim arose. Such writing shall describe the time when, the particular place where and the circumstances under which the damages or injuries were sustained and the cause thereof; it shall also state, so far as then practicable, the nature and extent of the damages or injuries; shall also state the place of residence of the claimant by street and number, and if there be no street or number, it shall contain such statement as will disclose the place of residence, and all such claims shall be verified by the oath of claimants. The omission to present such claim within sixty days from such alleged injuries and to commence an action thereon within one year from the time of such alleged injuries shall be a bar to any claim or action therefor against the city; but no action shall be brought upon any such claim until three months have elapsed after the presentation of the claim to the

common council. Nothing contained in this section shall be held to repeal or modify any existing requirement or statute of limitations which is applicable to this class of actions, but on the contrary shall be held to be an additional requirement for the right to maintain such action; nor shall anything herein contained be held to modify any existing rule of law relative to the question of contributory negligence, nor to impose upon the city any greater duty or obligation than that it shall keep its streets and public places in a reasonably safe condition for public use and travel. A two-thirds majority of the common council shall have the power, subject to the approval of the mayor, to pay, compromise or settle any such claim which may be made against the city for damages, provided such claim is presented within the time, and in the manner hereinbefore prescribed, and the sum or sums so expended shall be included in the amount to be raised by tax for general purposes, as hereinafter provided.

§ 241. **No disqualification as judge or juror because of residence in the city.**— No person shall be disqualified for acting as judge or juror by reason of being an inhabitant or freeholder in the city of Oneonta in any action or proceeding in which the city is a party or interested.

§ 242. **Civil actions to recover penalties.**— Civil actions to recover any penalties or forfeiture incurred under this act may be brought in any court having jurisdiction thereof. Such action shall be brought in the corporate name of said city, and in any action brought in the city court it shall be lawful to complain generally for the amount of such penalty or forfeiture, stating the section of this act or of the ordinance under which the penalty is claimed, and to give the special matter in evidence, and the defendant may answer by simply denying the truth of the complaint and give the special matter in evidence. If such action be brought in the city court against an alleged owner of real property, the fact that title to real property comes in question on the pleadings or appears on the trial shall not deprive the court of jurisdiction but may be litigated and determined by the judge as the right of the case may appear; but such judgment shall not be evidence concerning the title of real property in any other action or proceeding. The first process, in any such action brought in the city court, shall be by summons, which may be made returnable forthwith and an execution may be issued immediately on the rendition of judgment. All penalties and forfeit-

ures shall be forthwith, upon collection, paid to the city chamberlain to the credit of the general city fund. When any judgment shall be rendered in the city court in favor of or against the city of Oneonta in any action brought for the recovery of any penalty or for forfeiture or any other action in which the city of Oneonta shall be a party, the city judge shall within ten days thereafter file with the city clerk a transcript of such judgment for which he shall be entitled to charge the sum of twenty-five cents and include the same in the costs of said judgment; and in case the said judge shall omit to file such transcript or to do any of the acts above described, he shall forfeit the sum of twenty-five dollars for each and every such omission, to be recovered in an action by the city against said city judge. Whenever a judgment in favor of the city shall be recovered for twenty-five dollars or upwards, exclusive of costs, a transcript thereof may be filed in the office of the clerk of Otsego county and thereupon the same shall become a lien upon the property of the defendant in such judgment to the same extent, and may be collected and enforced in the same manner as other judgments recovered before justices of the peace and transcripts filed in pursuance of the laws of the state of New York.

TITLE XV.

DEPARTMENT OF PUBLIC LIBRARIES.

Section 243. City to form a public library district.
244. Board of library trustees.
245. General powers of library trustees.
246. Appointment of library trustees.
247. Organization and specified powers of trustees.
248. Annual reports of library trustees.
249. Powers of library trustees to raise moneys by taxes.

§ 243. **City to form a public library district.**— The said city shall form a permanent library district and the public library or libraries therein shall be entitled to all the rights, powers, privileges, public moneys and other benefits conferred upon public libraries by law or other state authority and shall, except as otherwise provided in this act, be subject to all the rules, regulations, powers of inspection and superintendence prescribed by law, applicable to public libraries in the state of New York.

§ 244. **Board of library trustees.**— The affairs of the Oneonta public library shall continue to be managed by a board of five members to be appointed in the manner provided in this act, which board shall be known and designated as the "board of trustees of Oneonta public library." Said board and its successors shall possess all the powers conferred, and discharge all the duties imposed, by this act or by any general law of this state relating to public libraries and not inconsistent with the provisions of this act.

§ 245. **General powers of library trustees.**— The present members of the board of trustees of Oneonta public library shall continue to constitute the board of trustees of the Oneonta public library until their successors are appointed and qualified, as provided by this act. The title to all real and personal property now belonging to said public library shall remain vested in said board of library trustees, but all moneys and funds belonging to said public library shall be paid over and delivered to the chamberlain of said city, and credited by him to the library fund of said city. All the rights, powers, privileges, obligations and liabilities of said Oneonta public library shall remain vested in and imposed upon said board of library trustees as hereby continued, and the rights and privileges of all persons that may have arisen or accrued prior to the passage of this act shall remain and be enforced by or against said board of library trustees, and its successors, in the same manner and with like effect as the same might have been enforced by or against the board of trustees of Oneonta public library if this act had not been passed; subject, however, to the provisions of this act.

§ 246. **Appointment of library trustees.**— The mayor of the city of Oneonta, subject to the approval of the common council, shall annually in the month of January appoint a citizen of said city a member of the board of trustees of Oneonta public library and shall also appoint a citizen of said city to fill any vacancy in the membership of said board caused by death, or otherwise, whenever such vacancy shall occur. Each person so appointed shall hold office for the term of five years, except when appointed to fill a vacancy, and in such case to fill the unexpired term caused by such vacancy.

§ 247. **Organization and specified powers of trustees.**— Said board of library trustees shall have power to elect one of their members president, and one of said members to act as secretary,

and each shall perform the duties usually pertaining to their respective offices, and subject to the provisions of this act and to the laws and regulations pertaining to public libraries in the state of New York, said board of library trustees shall have power and it shall be its duty:

1. To have the exclusive care, custody, management and control of the public library of said city, and of all property pertaining thereto.

2. To provide suitable rooms or building for said library and to appoint a librarian and such other persons as may be necessary for the proper care and maintenance of said library.

3. To purchase, sell, or exchange, improve and repair books for said library, library appurtenances and fixtures.

4. To pay the salaries of its librarian, assistants, or other persons employed by said board, and for books, library apparatus and fixtures, and all other expenses in the care and maintenance of said library, out of the moneys appropriated or provided by law for that purpose, by orders upon the city chamberlain.

5. To apply to the state for public library moneys and when received to pay the same over to the chamberlain of the city of Oneonta, and said chamberlain shall include the same in said library funds.

6. To receive all property, real and personal, that may be given, bequeathed or devised to the Oneonta public library and to have power to invest and reinvest and to care for, and control the same, but all moneys, income and funds received from such gifts, bequests or devises shall be paid to and disbursed by, the city chamberlain upon the order of said board of library trustees.

§ 248. **Annual reports of library trustees.**— It shall be the duty of the board of library trustees on or before the first day of August in each year, to make to the common council of the city a detailed report of the manner in which it shall have expended the money provided for and appropriated to library purposes from any source during the last fiscal year of said board of library trustees; and such report shall be published by the common council in connection with, and as a part of, the annual report of the financial transactions of the city which they are required by law to have printed and circulated. Said board of library trustees shall also make such reports to the educational department of the state of New York as shall be required by law.

§ 249. **Powers of library trustees to raise moneys by taxes.**— On or before the fifteenth day of July in each year, the said board of library trustees shall prepare a statement of such sums of money as it shall deem necessary during the next fiscal year which shall begin August first, annually. Before the meeting of the board at which said statement is prepared, the board shall give the mayor official notice thereof and the mayor shall attend said meeting, and be accorded the right of inquiry into all the items of said statement and all the privileges in said meeting of the members of said board, except the privilege of voting. Whenever the said board shall finally have determined on the statement of expenses for the ensuing year, it shall present the same to the mayor, or acting mayor of the city. If the mayor, or acting mayor, approves such statement he shall sign it and immediately file the same with the city clerk; if he does not approve any item therein he shall, within five days, return the statement with his objections endorsed thereon or annexed thereto, to the clerk of the said board of library trustees and said board shall then proceed to reconsider such statement, and if four-fifths of the members then in office agree to sustain the statement as made it shall stand as if it had been approved by the mayor and shall be immediately filed with the city clerk. If four-fifths of the members of said board do not agree to sustain the statement as made, it shall be modified so as to conform with the views expressed by the mayor in his objections and he shall then sign it and file it with the city clerk. But if he does not approve any item thereof, he shall, within twenty-four hours, return the same with his objections as before, and the board of library trustees shall continue to present statements as aforesaid until the mayor's approval be obtained or until four-fifths of the members of said board agree to pass the same over his objections, and said statement when thus approved shall be filed with the city clerk. If the mayor, or acting mayor, fails to sign a statement of moneys required as herein provided, or fails to return, within five days after its submission, said statement with his objections thereto to said board, said statement shall be filed with the city clerk in the same manner as if it had been approved. When such statement is filed with the city clerk the common council of said city shall then include the amount thereof in the annual levy

for school taxes, and the same shall be collected by the city chamberlain under the same terms as other taxes, who shall credit the same when received to the library fund of the Oneonta public library and who shall disburse the same upon orders of said board signed by the president and secretary thereof.

TITLE XVI.

MISCELLANEOUS.

Section 250. Continuation of officers.
251. First election of elective city officers.
252. Continuance of village ordinances.
253. First official and fiscal year.
254. Revenue for first year.
255. Unpaid taxes.
256. Village and other funds to be paid to chamberlain.
257. Reading of charter, ordinances, records, et cetera, in evidence.
258. Village assessments, liens, et cetera.
259. Completion of surveyed state roads.
260. Town officers.
261. Disposition of funds in hands of supervisor.
262. Repealing act.
263. Time when act shall take effect.

§ 250. **Continuation of officers.**— The supervisor and collector of the town of Oneonta who reside within the limits of said city shall, until the several officers who shall succeed to their duties in said town are chosen and have qualified, have the same jurisdiction and authority within and for said town as they have heretofore had, and shall be subject to the same conditions and obligations. Said collector shall have the same authority to collect any item upon the tax roll in his hands in January, nineteen hundred and nine, that he would have if this law had not been enacted. The provisions of chapter nineteen, title twelve of the code of civil procedure, shall apply to the justices of the peace residing within the limits of said city on the first day of January, nineteen hundred and nine, and the said justices shall be deemed to have moved from the town of Oneonta, except that all actions and proceedings then pending before any of them shall be continued before and completed by them. The person who, on December thirty-first, nineteen hundred and eight, is

clerk of the town of Oneonta shall forthwith deliver all his official records and documents to the clerk of the city of Oneonta. The remainder of the town property in the hands of said town clerk shall be delivered to the acting clerk of said town, to be by him divided between said city and said town, as to said clerk may seem just.

§ 251. **First election of elective city officers.**— The first election under this act shall be held on the first Tuesday after the first Monday in November, nineteen hundred and eight, at which time there shall be elected by the city at large a mayor, a chamberlain and a city judge, two assessors, and two constables. At the same time there shall also be elected by each ward one alderman and three supervisors shall be elected as provided in section twelve of this act. The term of each of said officers shall begin January first, nineteen hundred and nine, and shall expire December thirty-first, nineteen hundred and eleven. The regular city elections thereafter shall be held on the first Tuesday after the first Monday in November, in each and every odd year and the term of office of each officer elected at said time shall begin the first day of January following.

§ 252. **Continuance of village ordinances.**— All existing ordinances, by-laws, resolutions, rules and regulations of the village of Oneonta shall be and continue in force in the city of Oneonta with the same force and effect as if duly adopted and published by the common council as ordinances of the city, except as the common council shall modify, amend or repeal the same subject to the provisions of this act.

§ 253. **First official and fiscal year.**— The first official and fiscal year of said city shall commence upon the first day of January, nineteen hundred and nine, and shall end with the thirty-first day of December, nineteen hundred and nine, except for school and library purposes, which latter shall end July thirty-first.

§ 254. **Revenue of first year.**— Immediately upon taking office the several boards, commissions and other officers of said city, named in section fifty-four of this act, except the board of education and the library board, shall proceed to submit the estimates and reports of the first fiscal year, as provided for in said section, and the common council shall forthwith proceed to act thereupon and levy taxes for said first year which shall be collected as provided for in this act. The duty of each officer relative thereto

shall be the same, excepting as to time, as is in this act provided for the estimate, levy and collection of taxes in a regular year. Such levy shall be based upon the assessment roll herein provided for. The assessors of the town of Oneonta shall during the year nineteen hundred and eight make a separate list of the items within the boundaries set forth in section two of this act, in accordance with the provisions of subdivision four of section sixty of the charter of the village of Oneonta. Such separate list shall be in lieu of the village list provided for in said subdivision four, the time therein stated being hereby extended fifteen days.

§ 255. **Unpaid taxes.**— The city of Oneonta shall be entitled to all unpaid taxes of the village of Oneonta and the same shall be reassessed, collected and enforced by the same proceedings and process as the city tax. The city of Oneonta is authorized also to reassess, collect and enforce in the same manner, any uncollected tax of the town of Oneonta upon property situate in the limits of the present city of Oneonta. The city chamberlain shall account with the town of Oneonta for the portion to which such town is entitled of any town tax received by him.

§ 256. **Village and other funds to be paid to chamberlain.**— All funds of the village of Oneonta in the hands of the receiver of taxes and the treasurers of the said village and of said school districts numbered five and eleven, at the time this act takes effect shall, except as herein otherwise provided, be paid over by said receivers of taxes and treasurers to the chamberlain of said city, January first, nineteen hundred and nine, or as soon thereafter as he shall be qualified, and the common council and board of education shall, as soon as practicable, audit and order paid therefrom the various claims properly chargeable to said funds.

§ 257. **Reading of charter, ordinances, records, et cetera, in evidence.**— The charter of the city of Oneonta may be read in evidence from the volume of session laws of the state of New York containing said charter, from the volume printed by the authority of the common council or from a certified copy made by the city clerk or from the volume of ordinances and by-laws provided by authority of common council; and all records and accounts of the city which the city officers are required by law to keep shall be presumptive evidence of the truth of their contents in any court.

§ 258. **Village assessments, liens, et cetera.**— All taxes heretofore levied and all assessments made and liens declared by the village of Oneonta or the board of trustees thereof upon property in said village shall be, remain and continue existing liens against said property, and enforceable by the city of Oneonta in the manner hereinbefore provided, and all assessments heretofore made and liens created or assumed to be created by the village of Oneonta or board of trustees thereof against property in said village are hereby legalized, confirmed, ratified, reassessed, approved and declared lawful and are made valid liens in favor of said city of Oneonta and enforceable by said city in the manner hereinbefore provided. But the provisions of this act shall not in any manner affect any actions heretofore commenced and now pending against the said village of Oneonta or the officers thereof.

§ 259. **Completion of surveyed state roads.**— For the purpose of completion of state roads, surveys of which have heretofore been made by the state, the said city shall be deemed a town and the parts of roads so surveyed shall be completed and paid for the same as if they were not within an incorporated village or city.

§ 260. **Town officers.**— On the regular town meeting day after this act takes effect an election shall be held in the town of Oneonta for the purpose of electing officers of said town to fill all vacancies caused by the creation of the city of Oneonta. Notice thereof shall be given by the justice of the peace of said town. The polling place and necessary apparatus to be used at said election shall be designated and provided by the justice of the peace of the said town, who shall also appoint the officials to receive and count the ballots at said election and declare the result thereof. Until a clerk of said town is elected and qualified, said justice of the peace shall perform all the duties of the town clerk. The town of Oneonta may keep its town clerk's office in the city of Oneonta if it be deemed desirable.

§ 261. **Claims against town to be audited; disposition of funds in hands of outgoing supervisors.**— On or prior to the qualification of the chamberlain of the city of Oneonta, hereunder, the town board of Oneonta, which is in existence on the thirty-first day of December, nineteen hundred and eight, shall, upon due and timely notice, meet for the purpose of auditing all just and

legal claims and demands, or obligations whatsoever, which exist against the said town, or are legally chargeable thereto, and transacting all necessary business incidental thereto. The supervisor of said town shall thereupon pay all the audits of said town board at said meeting, out of any funds in his hands which are properly applicable thereto. Said supervisor shall at the end of his term pay over all funds remaining in his hands to the city chamberlain of Oneonta, and he shall at the same time render to the said chamberlain a full account of the finances of said town, and shall specify the estimated receipts and disbursements of the said town as they were made by him for the current year, and for what purpose or purposes all such estimates were made, or moneys raised, and as to what payments should justly and properly be made therefrom. The chamberlain shall, upon the receipt of such funds, pay to the supervisor of the town of Oneonta, as soon as elected, such part of such funds as properly belong to said town, and he shall disburse such portions of the balance thereof as may be needed to pay the obligations or estimates for which the said funds were raised, as they may become legally and properly due and payable. The said outgoing supervisor shall also file a copy of his said report to the city chamberlain with the treasurer of the county of Otsego.

§ 262. **Repealing act.**— Chapter thirty of the laws of eighteen hundred and eighty-five and the acts amendatory thereof are hereby repealed.

§ 263. **Time when this act shall take effect.**— This act shall take effect on the first day of January, nineteen hundred and nine, except that the elective offices provided for in this act shall be elected on the Tuesday succeeding the first Monday in November, nineteen hundred and eight; and all provisions of this act relative to primaries and elections shall govern the nominations and election of said officers. Also, excepting that the assessment for the year nineteen hundred and eight, shall be made in accordance with the provisions of section two hundred and fifty-four of this act.

Chap. 455.

AN ACT legalizing and validating the acts of the department of works and the common council of the city of Oswego in ordering the improvement of certain streets in said city and directing the relaying of the assessments in payment therefor.

Became a law, May 21, 1908, with the approval of the Governor. Passed, three-fifths being present.

Accepted by the City.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The acts of the department of works of the city of Oswego, dated August eleventh, nineteen hundred and four, and September sixth, nineteen hundred and four, in ordering the paving of West First street between the north line of Ohio street and the north line of Ellen street and between the south line of Erie street and the north line of Ohio street; and the action of the common council of the city of Oswego taken on the twenty-third day of August, nineteen hundred and four, and the sixth day of September, nineteen hundred and four, ordering such improvements to be made are hereby in all things legalized, ratified and confirmed, and the expense of such improvements is hereby declared to be a valid lien upon the property benefited, of the same force and effect as if a majority of owners of the property liable to assessment therefor, or the owners of one-half of the value of the property benefited thereby had petitioned, in writing, to said department of works or the common council for such local improvement or had consented thereto in writing.

§ 2. The board of local assessors is hereby authorized and empowered within thirty days after this act shall take effect, to reassess the amount of the expense of making such local improvements and shall make assessment-rolls of such local assessments in the manner provided by the charter and the common council is hereby authorized to confirm such assessment-rolls in the manner provided by the charter and on such confirmation the tax therefor shall be levied and collected in the manner provided by the charter for the collection of taxes for local improvements, and such tax shall have the same force and effect as if made by original assessments therefor.

§ 3. This act shall take effect immediately.

Chap. 456.

AN ACT to amend the primary election law, generally.

Became a law, May 21, 1908, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision one of section three of chapter one hundred and seventy-nine of the laws of eighteen hundred and ninety-eight, entitled "An act in relation to enrollment for political parties, primary elections, conventions, and political committees," as amended by chapter four hundred and seventy-three of the laws of eighteen hundred and ninety-nine, chapter two hundred and twenty-five of the laws of nineteen hundred, chapter one hundred and eleven of the laws of nineteen hundred and three, and chapter six hundred and seventy-four of the laws of nineteen hundred and five, is hereby amended to read as follows:

Subdivision 1. The custodian of primary records shall cause to be prepared on or before the fifteenth day of September in each year, original enrollment books to the number of two for each election district. Such enrollment books shall be so arranged that the names of all electors of the election district may be inscribed therein alphabetically. In cities of the first class containing a population of over three hundred thousand and less than five hundred thousand and cities of the third class to which this act is made applicable pursuant to section fourteen such enrollment books shall be so arranged and printed that there shall be fourteen columns on each page; the first for the enrollment number of the electors; the second for the surnames of the electors; the third for the Christian names of the electors; the fourth for their residence addresses; the fifth for the word "yes;" the sixth for the name of the party, if any, with which the elector shall enroll; the seventh for an entry to show a special enrollment; the eighth for the record of transfer or removal from one election district to another; the ninth for the word "voted" in case the elector votes at the first official primary election of the year; the tenth for a record as to challenges in case he is challenged thereat; the eleventh and twelfth columns for similar entries in case he votes at the second official primary

election; and the thirteenth and fourteenth columns for similar entries in case there be a third official primary election or unofficial primary elections. The enrollment books prepared for election districts within a city of the first or second class except as hereinbefore provided, shall be so arranged and printed that there shall be twelve columns on each page; the first for the enrollment number of the electors; the second for the surnames of the electors; third, for the Christian names of the electors; the fourth for their residence addresses; the fifth for the word "yes;" the sixth for the name of the party, if any, with which the elector shall enroll; the seventh for the word "voted" in case the elector votes at the first official primary election of the year; the eighth for a record as to challenges in case he is challenged thereat; the ninth and tenth columns for similar entries in case he votes at the second official primary election; and the eleventh and twelfth columns for similar entries in case there be a third official primary election or unofficial primary elections. Said books shall be delivered by the custodian of primary records to the election inspectors of the respective election districts immediately before the first day of registration in each year. The custodian of primary records shall cause at least two voting booths of the same kind and description as voting booths used at general elections, to be erected in each place of registration, before the first day of registration in each year, and such booths shall be and remain in said places of registration during the registration at the four regular meetings for registration during that year; and it shall be the duty of the custodian of primary records to furnish in each voting booth so erected the same articles which are required by law to be placed therein, for a general election, which articles shall remain therein during such registration. He shall also provide in like manner one ballot box in each place of registration of sufficient capacity to hold all the enrollment blanks and envelopes which are to be furnished for such place of registration, and which shall be of the kind prescribed by law to be used at a general election. There shall also be prepared and distributed by the custodian of primary records in the manner and at public expense as provided in the election law for the furnishing of official ballots, such a number of enrollment blanks and envelopes for each election district to the primary elections of which this act is applicable, as will exceed by

two hundred the total number of electors registered in such district at the last preceding general election. The enrollment blanks shall be printed on white paper, and on the face thereof shall be printed the following, or the substance thereof, the blanks to be filled in in type so far as possible:

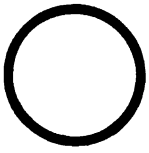
Primary enrollment for the year.....

City (or village) of; county of; assembly district (or ward); election district;.....enrollment number.....

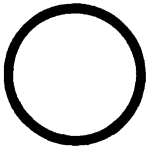
Name of elector.....

I, ..., who have placed a mark underneath the party emblem hereunder of my choice, do solemnly declare that I have this day registered as a voter for the next ensuing election, and that I am a qualified voter of the election district in which I have so registered, and that my residence address is as stated by me at the time I so registered; that I am in general sympathy with the principles of the party which I have designated by my mark hereunder; that it is my intention to support generally at the next general election, state or national, the nominees of such party for state or national offices; and that I have not enrolled with or participated in any primary election or convention of any other party since the first day of last year. The word party as used herein means a political organization which at the last preceding election of a governor, polled at least ten thousand votes for governor.

..... party. (Insert emblem.)



..... party. (Insert emblem.)



Make a cross (X) mark, with a pencil having black lead, in the circle under the emblem of the party with which you wish to enroll, for the purpose of participating in its primary elections during the next year. The circles underneath the emblems shall be one inch in diameter, and in them nothing shall be printed. The party emblems shall be the same which were on the ballots for each party respectively at the last preceding general election, and such emblems shall be so arranged on each blank that the

emblem of the majority party at the last preceding general election of a governor shall be first, and the other emblems shall follow in order in accordance with the vote cast for such office at such election; over each emblem shall be printed, in type clearly legible, the name of the party represented by such emblem. The enrollment blanks shall have thereon only the emblems of those parties to which this act is applicable and shall be distributed inclosed within the enrollment envelopes having corresponding enrollment numbers. The enrollment envelopes shall be of such size as to permit inclosure therein, without folding, of the enrollment blank, and of such weight and texture of paper as to make it impossible to read or decipher the printed matter on the blank when the same is sealed on the inside thereof. Nothing shall be printed or written upon the enrollment envelopes except the following words, or the substance thereof, blanks to be filled in in type as far as possible.

Primary enrollment for year.....
City (or village) of.....; county of.....
.....assembly district (or ward); election district.

§ 2. Subdivision two of section three of such chapter as amended by chapter four hundred and seventy-three of the laws of eighteen hundred and ninety-nine and chapter two hundred and twenty-five of the laws of nineteen hundred, is hereby amended to read as follows:

Subdivision 2. When, in any city or village to which this act is applicable, an elector shall, at any of the four regular meetings for registration in any year, present himself to the board of election inspectors in any election district, his name and residence address shall be entered at the proper place in the two original enrollment books for that district. After he shall have been registered as a qualified elector of that election district for the next ensuing general election, the board of election inspectors, or a member thereof, shall forthwith and before such elector leaves the place of registration, enter his registration number beginning with number one for the first elector registered on the first day, and so on in numerical order, opposite his name, in the first column of the registration books and the enrollment books, and shall write the name of the elector on the blank having the number which shall be opposite his name on the registration books, and shall fill in the other blank spaces on the enrollment envelope

and blank, and shall deliver to such elector the enrollment envelope and blank having his name on it. No elector shall be given more than two sets of enrollment blanks and envelopes, or more than one set unless he shall spoil, deface, improperly mark, or otherwise destroy the first set given him. In case a second set is given him, the member of the board of election inspectors in charge of the enrollment books shall draw a line through such elector's enrollment number in the first column in said book, and of the registration books, and shall insert in such space in said columns the number which shall be upon the new set to be given him, which number shall always be the highest number of the enrollment blanks and envelopes then unused in such booth. Such elector desiring to enroll shall then enter a voting booth in said place of registration, and, after having closed the door thereof, may make a cross (X) mark with a pencil having black lead in the circle underneath the emblem of the party of his selection and thereupon inclose said enrollment blank in said envelope and seal the same, and, before leaving the place of registration shall forthwith deposit the same in the ballot box in said place of registration in the presence of the inspectors of election, without in any way indicating the party with which he has or has not enrolled, and the inspectors shall thereupon enter in the enrollment books in the fifth column thereof the word "yes." If an elector declines to enroll, he may return the blank and envelope to the inspector in charge of the ballot box, and such inspector shall seal said envelope with the blank therein, indorse the name of such elector thereon and deposit the same in the ballot box; and a like entry shall be made opposite his name in the fifth column of the enrollment books. The entries in the enrollment books required by this section shall be made by a member of the board designated by the chairman. One mark crossing another mark at any angle within the circle shall be deemed a cross mark within the meaning of this act. Before any elector shall be registered in any year, the said ballot box shall be examined by the board of election inspectors and when empty shall be locked and sealed by them in such a manner that should it be opened such seal would be broken; and the same shall remain so locked and sealed until the same shall be opened by the custodian of primary records after the next ensuing general election as hereinafter provided. Said ballot boxes shall be in the charge

and keeping of the custodian of primary records at all times except during the hours of registration as prescribed by law. At the close of the last meeting for registration in each year the board of election inspectors shall severally subscribe and verify duplicate declarations, one of which shall be printed in or attached to each of the original enrollment books. Such declarations shall be to the effect that the persons shown by such enrollment books are the only persons who registered as electors in that district on any of said days of registration. Immediately upon the close of each day of registration, and before leaving the meeting place, the board of election inspectors shall publicly inclose the said enrollment books, together with all records pertaining thereto, in a sealed envelope, upon which shall be written or printed in distinct characters the number of the election district. Such envelope shall remain in the custody of the chairman of the board until the meeting on the next day of registration, when it shall be publicly opened. The envelope sealed at the close of the last day of registration shall, within twenty-four hours thereafter, be delivered to the custodian of primary records. Such envelope shall remain sealed until the next Tuesday following the next ensuing day of general election. No member of the board of election inspectors shall make, or allow to be made, a copy of, or a transcript or statement from, the enrollment books. No person shall, on any such days of registration or in the interval between any such day and the next ensuing day of general election, reveal or disclose the names or number of the enrolled electors, or make, publish or circulate a list of such names, or of any thereof, or do or permit any act by which the name of any elector who may or may not have enrolled, or the number of electors enrolled or not enrolled, shall be disclosed.

§ 3. Subdivision four of section three of such chapter as amended by chapter four hundred and seventy-three of the laws of eighteen hundred and ninety-nine, chapter two hundred and four of the laws of nineteen hundred, chapter one hundred and eleven of the laws of nineteen hundred and three, chapter six hundred and seventy-four of the laws of nineteen hundred and five, is hereby amended to read as follows:

Subdivision 4. At any time during the months of May and June, and in any year when a president of the United States is to be elected in the month of February also, any elector who was regis-

tered as a voter at one of said four meetings for registration in the preceding year but who did not then enroll with any party, may, except in cities of the first and second class and cities of the third class to which this act is made applicable pursuant to section fourteen become specially enrolled in and have his name added to the original enrollment books of, any party in the election district in which he then resided and still resides, in the manner following: He shall make, and acknowledge before an inspector of election in the election district in which he resides, or any officer authorized by law to take the acknowledgment of deeds to be recorded in this state, and file or cause to be filed, with the custodian of primary records a statement embodying a declaration in the following form: I, (naming the elector) do solemnly declare that I reside at (specifying his residence address), and am a qualified voter of the (specifying the number) election district of the (specifying the number) assembly district (or ward) in the city (or village) of (naming it); that at one of the last four preceding days of registration I registered as a voter in the said election district; but did not enroll, and I request that I be specially enrolled with the (naming it) party; that I am in general sympathy with the principles of the (naming it) party; that it is my intention to support generally at the next general election, state or national, the nominees of such party for state or national offices; and that I have not enrolled with or participated in any primary election or convention of any other party since the first day of last year. The word party as used herein means a political organization which at the last preceding election of a governor polled at least ten thousand votes for governor. Upon the filing of such statement, the custodian of primary records shall enroll such elector in the original enrollment books for the proper election district and shall record, in the proper columns thereof, the name and residence address of such elector, the election district in which he is registered as a voter, the name of the party designated in such statement, the number opposite his name on the registration book, the fact that the elector is specially enrolled, and the date of such special enrollment. If subsequent to any general election and prior to the first day of July next ensuing, territory to which this act is not applicable shall have become incorporated with a city or village to which it shall then be ap-

plicable, any elector residing in such annexed territory may become enrolled in and have his name added to the original enrollment books of any party for the election district in which he resides, at the time and in the manner provided in this subdivision. The enrollment of any such elector, so made, heretofore, is hereby legalized, ratified and confirmed in all respects as if made in pursuance of the provisions hereof. Nothing in this subdivision contained, giving the right to specially enroll as a member of a party, shall apply to cities of the first and second class, and cities of the third class to which this act is made applicable pursuant to section fourteen, and in such cities no elector shall be permitted to enroll as a member of a party except at one of the four regular meetings for registration, as provided in subdivision two of this section of this act, or in cities containing a population of more than three hundred thousand and less than a million and in cities of the third class to which this act is made applicable pursuant to section fourteen as provided in subdivision five and subdivision six of section three of this act.

§ 4. Subdivision five of section three of such chapter as amended by chapter four hundred and seventy-three of the laws of eighteen hundred and ninety-nine, chapter one hundred and eleven of the laws of nineteen hundred and three and chapter six hundred and seventy-four of the laws of nineteen hundred and five is hereby amended to read as follows:

Subdivision 5. Except in cities containing a population of not less than fifty thousand and not more than three hundred thousand, and cities containing a population of one million or over, an elector who shall have become of age after the last preceding general election may at any time other than during the thirty days next preceding an official primary day, become specially enrolled in, and have his name added to the original enrollment books of any party in the election district in which he resides, in the manner following: He shall make, and acknowledge before an inspector of elections in the election district in which he resides, or any officer authorized by law to take the acknowledgment of deeds to be recorded in this state, and file or cause to be filed with the custodian of primary records a statement embodying the declaration contained in subdivision four of this section, except that instead of the words indicating that the elector was registered at one of the last four preceding days of registration but did not enroll, words indicating that

he has become of age since the last preceding general election shall be used. Upon the filing of such statement, the custodian of primary records shall enroll such elector in the original enrollment books for the proper election district, and shall record in the proper columns thereof, the name and residence address of such elector, the fact that he has become specially enrolled, the date of such special enrollment, and the fact that he has become of age since the last preceding general election. Nothing in this subdivision contained giving to electors who shall have become of age after the last preceding general election the right to specially enroll, shall apply to cities containing a population of not less than fifty thousand and not more than three hundred thousand, or cities containing a population of one million or over, and in such cities no elector shall be permitted to enroll as a member of a party except at one of the four regular meetings for registration as provided in subdivision two of this section of this act.

§ 5. Subdivision six of section three of such chapter as amended by chapter four hundred and seventy-three of the laws of eighteen hundred and ninety-nine, chapter one hundred and eleven of the laws of nineteen hundred and three and chapter six hundred and seventy-four of the laws of nineteen hundred and five is hereby amended to read as follows:

Subdivision 6. If, after being enrolled as a member of a party in one election district, either by original enrollment or by transfer, an elector shall move into another election district in the same city or village, he may, except in cities containing a population of not less than fifty thousand and not more than three hundred thousand, and cities containing a population of one million or over, at any time between the first day of February of any year and the thirtieth day before the annual primary day, except during the thirty days before the official primary day in March, as herein provided, become enrolled therein as a member of the same party by making, acknowledging, and filing, or causing to be filed, with the custodian of primary records, a statement specifying the name of the party with which, and the election district in which he is enrolled, and the election district into which he has moved, and stating that he resides in the last mentioned election district, and desires to be enrolled therein as a member of such party. Upon the filing of such statement the custodian of primary records shall enroll the name of such elector in the original enrollment books for the proper election district,

specifying the district from which he is transferred, and shall also make a minute, opposite the entry of his name in the original enrollment books of the election district from which he has removed, showing the election district to which his name is transferred. Nothing in this subdivision contained giving the right of transfer, as herein stated, shall apply to cities containing a population of not less than fifty thousand and not more than three hundred thousand, or cities containing a population of one million or over, and in such cities no elector shall be permitted to take part in any primary election of any party other than the party with which and in the election district in which he enrolled at one of the four regular meetings for registration, as provided in subdivision two of this section of this act.

§ 6. Subdivision seven of section three of such chapter, as amended by chapter four hundred and seventy-three of the laws of eighteen hundred and ninety-nine, chapter one hundred and eleven of the laws of nineteen hundred and three, chapter six hundred and seventy-four of the laws of nineteen hundred and five and chapter seven hundred and forty-four of the laws of nineteen hundred and seven, is hereby amended to read as follows:

Subdivision 7. The custodian of primary records shall annually provide a true copy of the enrollment books, duly certified, for each party to which this act shall then be applicable, provided that in cities containing a population of one million or over and in cities containing a population of not less than fifty thousand and not more than three hundred thousand such copies shall be only of so much of the said enrollment books as will give the names, addresses and political affiliation of each voter, and the certificate attached to each said copy shall be qualified to meet the requirements of this proviso. The said custodian shall, in the month of February of each year, deliver one such certified copy to the chairman of the proper general committee of each such party. Such certified copies shall conform in all respects to the form of the original enrollment books, or to the portion transcribed, as the case may be, and all entries in such original enrollment books, completed to February fifteenth, when such books are prepared for election districts outside a city containing a population of not less than fifty thousand and not more than three hundred thousand, or a city containing a population of one million or over, shall be transferred thereto. The custodian of primary records shall, whenever

requested so to do by the chairman of the proper general committee of any party to which this act is applicable and upon the delivery to him of that party's certified copy of the enrollment books for any election district, of a city or village other than a city containing a population of not less than fifty thousand and not more than three hundred thousand, or a city containing a population of one million or over make such additions thereto and changes therein as may be necessary to cause the same to conform to the original enrollment books of that election district, completed to the fifteenth day of the month during which such request is made, and shall, as promptly as possible, return the same to such chairman or his duly authorized representative, accompanied by a supplemental certificate showing that each such copy is a correct copy of the original as of such date. The custodian of primary records within a city containing a population of not less than fifty thousand and not more than three hundred thousand, or a city containing a population of one million or over, shall certify to such chairman that each such copy is a correct transcript of the original enrollment book, made during the four days of registration of electors for the preceding general election. At all unofficial primary elections of a party, the certified copy of the enrollment books, completed, in the case of election districts outside of a city containing a population of not less than fifty thousand and not more than three hundred thousand, or a city containing a population of one million or over, to the first day of the month preceding the month in which the primary election is held, shall be used, and no elector shall be allowed to take part in such primary election as a resident of an election district, unless his name is upon the certified copy of the enrollment book for that district, showing that he is enrolled with the party in whose primary election he seeks to participate.

§ 7. Subdivision one of section four of such chapter, as amended by chapter four hundred and seventy-three of the laws of eighteen hundred and ninety-nine, chapters two hundred and two and five hundred and six of the laws of nineteen hundred, chapter one hundred and sixty-seven of the laws of nineteen hundred and one and chapter five hundred and four of the laws of nineteen hundred and seven, is hereby amended to read as follows:

Subdivision 1. In a year when a president and vice-president of the United States are to be elected, the tenth Tuesday before

the day of general elections, and in other years the seventh Tuesday before the day of general election, shall be known as the annual primary day, except in cities containing a population of one million or over, and in such cities in a year when a governor is to be elected, the eighth Tuesday before the day of general election, and in any other year the sixth Tuesday before the day of general election, shall be known as the annual primary day, and in all cities and villages to which this act is applicable each party shall on such day hold primary elections for the following purposes:

First. The election of delegates to all political conventions except conventions made up of delegates who by the rules and regulations of the party are chosen by other conventions and not at primary elections, and conventions called to meet prior to such primary day for the purpose of nominating candidates to be voted for at special elections.

Second. For the nomination of all candidates for public offices to be voted for at the ensuing election who by rule adopted by a party pursuant to section twelve of this act, are to be nominated at a primary election and not at a convention; and for the election of committeemen whose duty it shall be to fill vacancies in such nominations in the cases prescribed by section sixty-six of the election law, and in the manner therein provided so far as the same is applicable thereto.

Third. For the election of all committeemen who are to be chosen at a primary election and not at a convention.

Fourth. For the election of alternates to delegates, in case the rules and regulations of a party shall so provide.

Provided, however, that in any county having within its limits a city containing a population of three hundred thousand or over, there shall be in each even-numbered year and in each odd-numbered year in which officers of the state, other than members of the legislature are to be elected, two annual primary days, the first on the seventh Tuesday before such day of general election except as above provided for a presidential year and the second on the fifth Tuesday before such day of general election. On the first of such days shall be held the primary elections for the purpose of electing delegates to such conventions as are made up of delegates representing more than one county or of electing delegates to conventions to choose delegates to conventions which are made up of delegates representing more than

one county; and on the second of such days shall be held the primary elections for the election of other delegates, the nomination of candidates and the election of committeemen, as provided in this subdivision one of section four of this act. Nothing herein contained shall be construed as compelling the holding of primary elections in such a county on the first of such days in odd-numbered years in case no delegates are to be voted for thereat, but in that event there shall be in such a year in such a county but one annual primary day, and it shall be on the fifth Tuesday before such general election. The primary elections held on each primary day shall be official primary elections, and except as in this provision provided, such elections, and all inspectors thereof and public officers and boards, shall be subject to all the provisions and charged with all of the duties prescribed by this act for the conduct of the official primary elections on the annual primary day.

§ 8. This act shall take effect immediately.

Chap. 457.

AN ACT to amend the stock corporation law, relative to dissolution of corporations.

Became a law, May 21, 1908, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section sixty-one of chapter five hundred and sixty-four of the laws of eighteen hundred and ninety, entitled "An act in relation to stock corporations, constituting chapter thirty-eight of the general laws," which section was added by chapter two hundred and ninety-six of the laws of nineteen hundred and four, is hereby amended to read as follows:

§ 61. **Dissolution by incorporators.**— The incorporators named in any certificate of incorporation filed for the purpose of creating a domestic stock corporation, other than a moneyed or transportation corporation, may, before the payment of any part of the capital, and before beginning business, surrender all corporate rights and franchises, by signing, verifying and filing in the office of the secretary of state and the clerk of the county where the

certificate of incorporation is filed, a certificate setting forth the names of the incorporators, that no part of the capital has been paid, that there are no liabilities, that such business has not been begun, and surrendering all rights and franchises; and proof of the facts set forth in such certificate to the satisfaction of the secretary of state; and thereupon the said corporation shall be dissolved, and its corporate existence and powers shall cease. In case any incorporator of such a corporation shall be deceased, then the aforesaid certificate may be made by the surviving incorporators providing two years shall have elapsed since the date of its incorporation, but in such case the certificate shall set forth the fact that one or more of said incorporators is deceased.

§ 2. This act shall take effect immediately.

Chap. 458.

AN ACT to amend the penal code, relative to bucket shops, and fixing penalties.

Became a law, May 21, 1908, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Title ten of the penal code is hereby amended by adding after chapter ten of such title a new chapter to be chapter eleven of such title, to read as follows:

CHAPTER XI.

Section 355-a. Acts prohibited; penalty for violation.
355-b. Exhibiting quotations; penalty for violation.
355-c. Written statement to be furnished; presumption.
355-d. Corporations; additional penalty for second offense.
355-e. Definitions.

§ 355-a. **Acts prohibited; penalty for violation.**— Any person, copartnership, firm, association or corporation, whether acting in his, their or its own right, or as the officer, agent, servant, correspondent or representative of another, who shall,

1. Make or offer to make, or assist in making or offering to make any contract respecting the purchase or sale, either upon

credit or margin, of any securities or commodities, including all evidences of debt or property and options for the purchase thereof, shares in any corporation or association, bonds, coupons, scrip, rights, choses in action and other evidences of debt or property and options for the purchase thereof or anything moveable that is bought and sold, wherein both the parties thereto intend, that such contract shall be or may be terminated, closed or settled according to, or upon the basis of the public market quotations of prices made on any board of trade or exchange upon which such commodities or securities are dealt in, and without intending a bona fide purchase or sale of the same; or

2. Makes or offers to make or assists in making or offering to make any contract respecting the purchase or sale, either upon credit or margin, of any such securities or commodities, wherein both parties intend, that such contract shall or may be deemed terminated, closed and settled when such market quotations of prices for such securities or commodities named in such contract shall reach a certain figure, without intending a bona fide purchase or sale of the same; or

3. Makes or offers to make, or assists in making or offering to make any contract respecting the purchase or sale, either upon credit or margin of any such securities or commodities, wherein both parties do not intend, the actual bona fide receipt or delivery of such securities or commodities, but do intend a settlement of such contract based upon the difference in such public market quotations of prices at which said securities or commodities are, or are asserted to be, bought or sold, or

4. Shall, as owner, keeper, proprietor or person in charge of, or as officer, director, stockholder, agent, servant, correspondent or representative of such owner, keeper, proprietor or person in charge, or of any other person, keep, conduct or operate any bucket shop, as hereinafter defined; or knowingly permit or allow or induce any person, copartnership, firm, association or corporation whether acting in his, their or its own right, or as the officer, agent, servant, correspondent or representative of another to make or offer to make therein, or to assist in making therein, or in offering to make therein, any of the contracts specified in any of the three preceding subdivisions of this section,

Shall be guilty of a felony and on conviction thereof shall, if a corporation, be punished by a fine of not more than five thousand dollars for each offense and all other persons so convicted shall be punished by a fine of not more than one thousand dollars or by

imprisonment for not more than five years, or by both such fine and imprisonment. The prosecution, conviction and punishment of a corporation hereunder shall not be deemed to be a prosecution, conviction or punishment of any of its officers, directors or stockholders.

§ 355-b. **Exhibiting quotations; penalty for violation.**— Any person, firm, copartnership, association or corporation receiving, communicating, exhibiting or displaying in any manner any statement of quotations of prices of any such securities or commodities with an intent to make or offer to make or to assist in making or offering to make any contract prohibited in this act shall be guilty of a felony and on conviction thereof shall be punished as provided in section three hundred and fifty-five-a hereof.

§ 355-c. **Written statement to be furnished; presumption.**— Every person, firm, association, copartnership or corporation shall furnish upon written demand to any customer, or principal for whom such person has executed an order for the actual purchase or sale of any such securities or commodities, either for immediate or future delivery, a written statement containing the names of the persons from whom such property was bought, or to whom it has been sold, as the case may be, the time when, place where, the amount of and the price at which the same was either bought or sold; and if such person, firm, association, copartnership or corporation shall refuse or neglect to furnish such statement within forty-eight hours after such demand, such refusal shall be prima facie evidence that such purchase or sale was made in violation of this act.

§ 355-d. **Corporations; additional penalty for second offense.**— If a domestic corporation shall be convicted of a second offense hereunder the supreme court shall have jurisdiction upon an action brought by the attorney-general, in the name of the people, for that purpose, to dissolve such corporation; and if a foreign corporation shall be convicted of a second offense, such court shall have jurisdiction in an action brought in like manner to restrain such corporation from doing business in this state.

§ 355-e. **Definitions.**— "Bucket shop" shall mean any building, or any room, apartment, booth, office or store therein or any other place where any contract prohibited by this act is made or offered to be made.

§ 2. This act shall take effect September first, nineteen hundred and eight.

Chap. 459.

AN ACT to repeal chapter four hundred and ninety-seven of the laws of eighteen hundred and ninety-nine, entitled "An act to regulate the use of lands forming part of the right of way of any railroad company, the road of which has been removed from the surface in, or adjacent to, streets and highways in all cities of the first class in this state."

Became a law, May 21, 1908, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Chapter four hundred and ninety-seven of the laws of eighteen hundred and ninety-nine, entitled "An act to regulate the use of lands forming part of the right of way of any railroad company, the road of which has been removed from the surface in, or adjacent to, streets and highways in all cities of the first class in this state," is hereby repealed.

§ 2. This act shall take effect immediately.

Chap. 460.

AN ACT to amend the public health law by defining optometry and regulating the practice thereof.

Became a law, May 21, 1908, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Chapter six hundred and sixty-one of the laws of eighteen hundred and ninety-three, entitled "An act in relation to the public health, constituting chapter twenty-five of the general laws," is hereby amended by inserting a new article to be article thirteen thereof, and to read as follows:

ARTICLE XIII.

OPTOMETRY.

Section 209-a. Definition; application of article.
209-b. State board of examiners..
209-c. Powers of board.
209-d. Examinations; certificates for practitioners.

Section 209-e. Certificate to be recorded and displayed.
209-f. Fees.
209-g. Revocation of certificate.
209-h. Violations of article.
209-i. Construction of article.

§ 209-a. **Definition; application of article.**— The practice of optometry is defined to be the employment of any means, other than the use of drugs, for the measurement of the powers of vision and the adaptation of lenses for the aid thereof.

§ 209-b. **State board of examiners.**— The state board of regents is hereby authorized and directed on or before July first, nineteen hundred and eight, to appoint a board of examiners in optometry. Such board of examiners shall consist of five persons, who shall possess sufficient knowledge of theoretical and practical optics to practice optometry and who shall have been residents of this state actually engaged in the practice of optometry for at least five years. The term of each member of said board shall be three years, or until his successor is appointed, and vacancies shall be filled for the unexpired term only; but in the original appointment of the members of the board two shall be appointed for the term of one year, two for two years and one for three years from July first, nineteen hundred and eight.

§ 209-c. **Powers of board.**— Said board of examiners shall, subject to the approval of the regents, make such rules and regulations, not inconsistent with the law, as may be necessary for the proper performance of its duties; any member of the board may upon being duly designated by the board, or a majority thereof, administer oaths or take testimony concerning any matter within the jurisdiction of the board.

§ 209-d. **Examinations; certificates of practitioners.**— Every person desiring to commence or to continue the practice of optometry after January first, nineteen hundred and nine, except as hereinafter provided, upon presentation of satisfactory evidence, verified by oath, that he is more than twenty-one years of age, of good moral character, has a preliminary education equivalent to at least two years in a registered high school, and has also studied at least three years in a registered optometrist's office, or has graduated from a school of optometry, maintaining a standard satisfactory to said board of regents, shall take an examination before said board of examiners to determine his qualifications therefor. Every candidate successfully passing such examination shall be registered by said board of regents as possessing the

qualifications required by this article, and shall receive from said board of regents a certificate thereof, but any person who shall submit to said board of examiners satisfactory proof as to his character, competency, and qualifications, and that he has been continuously engaged in the practice of optometry in this state for more than two years next prior to the passage of this article, may upon the recommendation of said board of examiners receive from the board of regents a certificate of exemption from such examination, which certificate shall be registered and entitle him to practice optometry under this article. Every person entitled to a certificate of exemption as herein provided must make application therefor and present the evidence to entitle him thereto, on or before January first, nineteen hundred and nine, or he shall be deemed to have waived his right to such certificate. Before any certificate is issued it shall be numbered and recorded in a book kept in the regents' office and its number shall be noted upon the certificate. A photograph of the person registered shall be filed with the record and a duplicate thereof affixed to the certificate. In all legal proceedings the record and photograph so kept in the regents' office or certified copies thereof shall be prima facie evidence of the facts therein stated.

§ 209-e. **Certificate to be recorded and displayed.**— Every person to whom a certificate of either registration or exemption shall be issued shall immediately cause the same to be recorded in the clerk's office in the county of his residence, and also in the clerk's office of each other county wherein he shall then practice or thereafter commence the practice of optometry; every person practicing optometry must also display his certificate of registration or exemption in a conspicuous place in the principal office wherein he practices optometry and, whenever required, exhibit such certificate to said board of examiners or its authorized representatives. And whenever practicing said profession of optometry outside of, or away from, said office or place of business, he shall deliver to each customer or person so fitted with glasses, a bill of purchase, which shall contain his signature, home post-office address, and the number of his certificate of registration or exemption, together with a specification of the lenses furnished and the price charged therefor.

§ 209-f. **Fees.**— The fee for such examination shall be fifteen dollars; for a certificate of registration, ten dollars, and for a certificate of exemption, five dollars, to be paid to the board of regents and constitute a fund for expenses made necessary by this article. Such fees shall be paid into the state treasury and the

legislature shall annually appropriate therefrom for the education department an amount sufficient to pay all proper expenses incurred pursuant to this act. The fee to be paid to the county clerk for recording a certificate shall be fifty cents.

§ 209-g. **Revocation of certificate.**— The board of regents shall have power to revoke any certificate of registration or exemption granted by it under this act, the holder of which is guilty of any fraud or deceit in his practice, has been convicted of crime, or is an habitual drunkard, or grossly incompetent to practice optometry. Proceedings for revocation of a certificate or the annulment of registration shall be begun by filing a written charge or charges against the accused. These charges may be preferred by any person or corporation, or the regents may on their own motion direct the executive officer of the board of regents to prefer said charges. Said charges shall be filed with the executive officer of the board of regents, and a copy thereof filed with the secretary of the board of optometry examiners. The board of optometry examiners, when charges are preferred, shall designate three of their number as a committee to hear and determine said charges. A time and place for the hearing of said charges shall be fixed by said committee as soon as convenient, and a copy of the charges, together with a notice of the time and place when they will be heard and determined, shall be served upon the accused or his counsel, at least ten days before the date actually fixed for said hearing. Where personal service or service upon counsel cannot be effected, and such fact is certified on oath by any person duly authorized to make legal service, the regents shall cause to be published for at least seven times for at least twenty days prior to the hearing, in two daily papers in the county in which the optometrist was last known to practice, a notice to the effect that at a definite time and place a hearing will be had for the purpose of hearing charges against the optometrist upon an application to revoke his certificate. At said hearing the accused shall have the right to cross-examine the witnesses against him and to produce witnesses in his defense, and to appear personally or by counsel. The said committee shall make a written report of its findings and recommendations, to be signed by all its members, and the same shall be forthwith transmitted to the executive office of the board of regents. If the said committee shall unanimously find that said charges, or any of them, are sustained, and shall unanimously recommend that the certificate of the accused be revoked or his registration be annulled, the regents may thereupon, in their discretion, revoke said certifi-

cate or annul said registration, or do both. If the regents shall annul such registration, they shall forthwith transmit to the clerk of the county or counties in which said accused is registered as an optometrist, a certificate under their seal certifying that such registration has been annulled, and said clerk shall, upon receipt of said certificate, file the same and forthwith mark said registration "annulled." Any person who shall practice optometry after his registration has been marked "annulled" shall be deemed to have practiced optometry without registration. Where the certificate of any person has been revoked, or his registration has been annulled as herein provided, the regents may, after the expiration of one year, entertain an application for a new certificate, in like manner as original applications for certificates are entertained; and upon such new application they may in their discretion exempt the applicant from the necessity of undergoing any examination.

§ 209-h. **Violations of articles.**— No person not a holder of a certificate of registration or exemption duly issued to him and recorded as above provided shall after January first, nineteen hundred and nine, practice optometry within this state. No person shall falsely personate a registered optometrist of a like or different name, nor buy, sell, or fraudulently obtain a certificate of registration or exemption issued to another. Practicing or offering to practice optometry, or the public representation of being qualified to practice the same by any person not authorized to practice optometry, shall be sufficient evidence of a violation of this article. Any violations of the provisions of this article shall be a misdemeanor and courts of special sessions shall have jurisdiction of all such violations.

§ 209-i. **Construction of article.**— Nothing in this act shall be construed to apply to duly licensed physicians authorized to practice medicine under the laws of the state of New York nor to persons who neither practice nor profess to practice optometry, who sell spectacles, eyeglasses or lenses either on prescription from such physicians or from such duly qualified optometrists, or as merchandise from permanently located and established places of business.

§ 2. Article thirteen of the public health law renumbered as such article by chapter two hundred and ninety-three of the laws of nineteen hundred and three is hereby renumbered as article fourteen of said law.

§ 3. This act shall take effect immediately.

Chap. 461.

AN ACT to amend the village law, in relation to street improvement.

Became a law, May 21, 1908, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section one hundred and sixty-six, chapter four hundred and fourteen, of the laws of eighteen hundred and ninety-seven, entitled "An act in relation to villages, constituting chapter twenty-one of the general laws," as amended by chapter three hundred and sixty-five of the laws of eighteen hundred and ninety-eight and by chapter ninety-seven of the laws of nineteen hundred and six, and by chapter forty-four of the laws of nineteen hundred and seven, is hereby amended to read as follows:

§ 166. The board of trustees may cause a street in the village or part thereof, to be graded or the sidewalk flagged or curbed or the street paved, or any one or more of such acts performed wholly at the expense of the village, or of the owners of the adjoining land, or partly at the expense of each; but such street shall not be so graded or flagged or curbed or paved wholly at the expense of the owner of the adjoining land unless a petition therefor be presented to the board of trustees signed by the owners of at least two-thirds of the frontage on the street or portion thereof proposed to be so improved, if the improvement is to consist of grading or curbing or paving, and by the owners of more than one-half of the frontage on the street or portion thereof proposed to be improved if the improvement consists of flagging, and a hearing given thereon to all persons interested on a notice of at least ten days. If such improvement is so required to be constructed or repaired wholly at the expense of the owners of the adjoining lands, a notice specifying the place and manner, and the time not less than thirty days, within which the said improvement is required to be constructed or repaired, shall be served upon the owners. If an owner shall not construct or repair the street as required by the notice, the board of trustees may cause the same

to be so constructed or repaired, and assess the expense thereof upon the adjoining land. If a street is to be so improved, constructed or repaired at the joint expense of the village and the owner of the adjoining land, the board of trustees may cause the same to be constructed or repaired, and assess upon the adjoining land the proportion of the expense chargeable against the same; or it may direct the owner to contribute labor or materials therefor. The total amount expended for street paving in any fiscal year from the moneys raised during such year, for street purposes, otherwise than in pursuance of a village election, shall not be more than one-half thereof. No land owner shall be required to grade, flag, curb or pave or bear the expense of so doing any portion of the street not in front of such land, nor beyond the center of the street. All grading done or flagging laid or curb set or pavements laid by the owners of adjoining land shall be laid under the supervision and in accordance with the directions of the board of trustees. The expense of constructing a pavement or of grading done or flagging laid or curb set or any part thereof may be raised in an entire amount or in smaller amounts from time to time, as the board of trustees may determine. If any portion of such expense is to be borne by the village, bonds or certificates of indebtedness may be issued. If such expense or any part thereof is to be assessed upon adjoining land, the board of trustees may apportion it upon the lands and assess the same as a whole or by installments. Notice of an assessment based upon such apportionment shall be given to the land owners, who may pay the amounts assessed within ten days after such notice. At the expiration of that time bonds or certificates of indebtedness may be issued for the aggregate amount of such assessment then remaining unpaid. Taxes for the amount of such bonds or certificates issued on account of default in the payment of the amount apportioned upon the adjoining land, shall be levied and collected in the manner prescribed by this chapter in case of unpaid assessments for the construction of sewers.

§ 2. This act shall take effect immediately.

Chap. 455.

AN ACT legalizing and validating the acts of the department of works and the common council of the city of Oswego in ordering the improvement of certain streets in said city and directing the relaying of the assessments in payment therefor.

Became a law, May 21, 1908, with the approval of the Governor. Passed, three-fifths being present.

Accepted by the City.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The acts of the department of works of the city of Oswego, dated August eleventh, nineteen hundred and four, and September sixth, nineteen hundred and four, in ordering the paving of West First street between the north line of Ohio street and the north line of Ellen street and between the south line of Erie street and the north line of Ohio street; and the action of the common council of the city of Oswego taken on the twenty-third day of August, nineteen hundred and four, and the sixth day of September, nineteen hundred and four, ordering such improvements to be made are hereby in all things legalized, ratified and confirmed, and the expense of such improvements is hereby declared to be a valid lien upon the property benefited, of the same force and effect as if a majority of owners of the property liable to assessment therefor, or the owners of one-half of the value of the property benefited thereby had petitioned, in writing, to said department of works or the common council for such local improvement or had consented thereto in writing.

§ 2. The board of local assessors is hereby authorized and empowered within thirty days after this act shall take effect, to reassess the amount of the expense of making such local improvements and shall make assessment-rolls of such local assessments in the manner provided by the charter and the common council is hereby authorized to confirm such assessment-rolls in the manner provided by the charter and on such confirmation the tax therefor shall be levied and collected in the manner provided by the charter for the collection of taxes for local improvements, and such tax shall have the same force and effect as if made by original assessments therefor.

§ 3. This act shall take effect immediately.

Chap. 456.

AN ACT to amend the primary election law, generally.

Became a law, May 21, 1908, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision one of section three of chapter one hundred and seventy-nine of the laws of eighteen hundred and ninety-eight, entitled "An act in relation to enrollment for political parties, primary elections, conventions, and political committees," as amended by chapter four hundred and seventy-three of the laws of eighteen hundred and ninety-nine, chapter two hundred and twenty-five of the laws of nineteen hundred, chapter one hundred and eleven of the laws of nineteen hundred and three, and chapter six hundred and seventy-four of the laws of nineteen hundred and five, is hereby amended to read as follows:

Subdivision 1. The custodian of primary records shall cause to be prepared on or before the fifteenth day of September in each year, original enrollment books to the number of two for each election district. Such enrollment books shall be so arranged that the names of all electors of the election district may be inscribed therein alphabetically. In cities of the first class containing a population of over three hundred thousand and less than five hundred thousand and cities of the third class to which this act is made applicable pursuant to section fourteen such enrollment books shall be so arranged and printed that there shall be fourteen columns on each page; the first for the enrollment number of the electors; the second for the surnames of the electors; the third for the Christian names of the electors; the fourth for their residence addresses; the fifth for the word "yes;" the sixth for the name of the party, if any, with which the elector shall enroll; the seventh for an entry to show a special enrollment; the eighth for the record of transfer or removal from one election district to another; the ninth for the word "voted" in case the elector votes at the first official primary election of the year; the tenth for a record as to challenges in case he is challenged thereat; the eleventh and twelfth columns for similar entries in case he votes at the second official primary

todian of primary records a statement of the conventions, committees and offices for which delegates, members or candidates, as the case may be, are to be elected thereat, and the number of delegates to conventions, and members of committees, to be elected in each unit of representation. The custodian of primary records shall prepare a notice of each official primary election provided for by this act, and shall publish such notice, not more than ten days and not less than five days prior to such primary election, in at least one newspaper having a general circulation in the city or village, of the political faith of each of the two parties which, at the last preceding election of a governor, cast the highest and next highest number of votes for governor. Such notice shall specify the day of such primary election, the hours during which it will be held, the location of each polling place, the election districts whose electors may vote at each such polling place, the name of the party or parties whose primary elections will be held thereat, and the conventions, committees and offices for which delegates, members or candidates, as the case may be, will be voted for thereat. All official primary elections held in pursuance of this act shall be open from three o'clock in the afternoon to nine o'clock in the evening. All other primary elections, if any, shall be open for not less than four hours, commencing not earlier than three o'clock in the afternoon and ending not later than ten o'clock in the evening.

§ 2. This act shall take effect immediately.

Chap. 464.

AN ACT to amend the election law, relative to preservation of papers relating to elections.

Became a law, May 21, 1908, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision one of section one hundred and thirteen of chapter nine hundred and nine of the laws of eighteen hundred and ninety-six, entitled "An act in relation to the elections, con-

stituting chapter six of the general laws," as amended by chapter six hundred and forty-three of the laws of nineteen hundred and five, is hereby amended to read as follows:

§ 113. **Delivery and filing of papers relating to the election.**—Subdivision 1. If the election be other than an election of town, city, village or school officers, held at a different time from a general election, the chairman of the board of inspectors of each election district, except in the city of New York and in the county of Erie, shall forthwith upon the completion of such certified original statement of the result, deliver one certified copy thereof to the supervisor of the town in which the election, if outside of a city, is situated, and if in a city, to one of the supervisors of said city. If there be no supervisor, or he be absent or unable to attend the meeting of the county board of canvassers, such certified copy shall be forthwith delivered to an assessor of such town or city. One certified copy of such original statement of the result of the canvass, the poll-books of such election, and one of the tally sheets, shall be forthwith filed by such inspectors, or by one of them deputed for that purpose, with the town clerk of such town, or the city clerk of such city, as the case may be. The original certified statement of the result of the canvass, with the original ballot return prepared by the ballot clerk, attached, the sealed package of void and protested ballots, the record as to challenged and assisted voters, and the sealed packages of detached stubs and unvoted ballots, and one of the tally sheets shall, within twenty-four hours after the completion of such canvass, be filed by the chairman of the board of inspectors, with the county clerk of the county in which the election district is situated. The register of electors and public copy thereof shall be filed as prescribed in section thirty-five of this act. The officers with whom said papers are filed shall not be required to preserve or retain on file the packages of detached stubs and unvoted ballots for a period of more than six months nor the statements of the result of the canvass, ballot returns, records as to challenged and assisted voters, package of void and protested ballots, poll-books, tally sheets and register of electors, for a period longer than three years unless otherwise directed by a committee of the legislature, the district attorney of the county or a justice or judge of a court of record.

§ 2. This act shall take effect immediately.

Chap. 465.

AN ACT making appropriations for the support of government.

Became a law, May 22, 1908, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The several amounts named in this act are hereby appropriated and authorized to be paid from the several funds indicated, to the respective public officers, and for the several purposes specified, for the fiscal year beginning on the first day of October, in the year nineteen hundred eight, namely:

FROM THE GENERAL FUND.

EXECUTIVE DEPARTMENT.

For the salaries:

of the governor, ten thousand dollars ($10,000);

lieutenant-governor, five thousand dollars ($5,000);

secretary to the governor, four thousand dollars ($4,000);

of the counsel to the governor, five thousand dollars ($5,000); and for his actual and necessary traveling expenses in the performance of his official duties, five hundred dollars ($500), or so much thereof as may be necessary.

military secretary, two thousand dollars ($2,000);

keeper and recorder of legislative bills, to which position the military secretary may be assigned, fifteen hundred dollars ($1,500);

pardon clerk, three thousand dollars ($3,000);

executive stenographer, two thousand five hundred dollars ($2,500);

of the employees according to grade:

seventh grade, one employee, fifteen hundred dollars ($1,500);

sixth grade, three employees, three thousand six hundred dollars ($3,600);

and for temporary and other services, one thousand dollars ($1,000), or so much thereof as may be necessary.

For furniture, books, binding, blanks, printing, messages and other necessary incidental office expenses, three thousand dollars ($3,000), or so much thereof as may be necessary.

For postage and transportation of letters, official documents, and other matter sent by express or freight, including boxes or covering for same, five hundred dollars ($500), or so much thereof as may be necessary.

For incidental expenses of the executive mansion, rent of stable and equipage three thousand dollars ($3,000) to be paid by the comptroller on the certificate of the governor.

NOTARIAL BUREAU.

For the salaries:

of the appointment clerk, twenty-five hundred dollars ($2,500);

of the employees according to grade:

ninth grade, one employee, two thousand dollars ($2,000);

eighth grade, one employee, one thousand seven hundred dollars ($1,700);

seventh grade, one employee, fifteen hundred dollars ($1,500);

and for temporary and other services and expenses, one thousand five hundred dollars ($1,500), or so much thereof as may be necessary.

JUDICIARY.

COURT OF APPEALS.

For the salaries:

of the judges of the court of appeals, seventy thousand five hundred dollars ($70,500); for their necessary expenses, as provided by chapter seven hundred eighteen, laws of eighteen hundred seventy-one, fourteen thousand dollars ($14,000); for their additional expense allowance as provided by chapter six hundred six, laws of eighteen hundred ninety-eight, eleven thousand nine hundred dollars ($11,900);

of the justices of the supreme court serving as associate judges of the court of appeals, twenty thousand dollars ($20,000); for their necessary expenses, as provided by chapter seven hundred eighteen, laws of eighteen hundred seventy-one, four thousand dollars ($4,000); for their additional expense allowance as provided by chapter six hundred six, laws of eighteen hundred ninety-eight, three thousand four hundred dollars ($3,400);

of clerks of judges of the court of appeals, appointed pursuant to section two hundred two of the code of civil procedure, and for expenses of offices for judges of the court of appeals incurred pursuant to section two hundred three of said code, five thousand dollars ($5,000), or so much thereof as may be necessary;

of a confidential clerk, appointed by the chief judge of the court of appeals, twenty-five hundred dollars ($2,500);

of clerks appointed pursuant to section two hundred two of the code of civil procedure, by the justices of the supreme court assigned to serve as judges of the court of appeals, two thousand four hundred dollars ($2,400);

of the crier, one thousand five hundred dollars ($1,500);
consultation clerk, three thousand dollars ($3,000);
stenographer and librarian, two thousand two hundred dollars ($2,200);

of three attendants, one thousand five hundred dollars each ($4,500);
one attendant, seven hundred fifty dollars ($750);
law clerk, two thousand dollars ($2,000);
attendant designated as assistant law clerk, one thousand seven hundred fifty dollars ($1,750);
messenger, one thousand dollars ($1,000).

CLERK OF THE COURT OF APPEALS.

For the salaries:

of the clerk, five thousand dollars ($5,000);
deputy clerk, three thousand dollars ($3,000);
remittitur clerk, two thousand five hundred dollars ($2,500);

of the employees according to grade:

ninth grade, two employees, four thousand two hundred dollars ($4,200);

seventh grade, one employee, one thousand five hundred dollars ($1,500), or so much thereof as may be necessary.

For furniture, books, binding, blanks, printing and other necessary incidental office expenses, one thousand dollars ($1,000), or so much thereof as may be necessary.

For postage and transportation of letters, official documents, and other matter sent by express or freight, including boxes or covering for same, two hundred fifty dollars ($250), or so much thereof as may be necessary.

LIBRARIES.

For books, binding and supplies for the fourteen judicial district libraries named in chapter four hundred, laws of eighteen hundred eighty, chapter four hundred forty-four, laws of eighteen hundred eighty-eight, chapter two hundred thirty-one, laws of eighteen hundred ninety-five, chapter thirty-two, laws of nineteen hundred two, and chapter two hundred fifty-four, laws of nineteen hundred four, six hundred dollars each ($8,400), or so much thereof as may be necessary;

for the library of the judges of the court of appeals at Albany, one thousand dollars ($1,000), or so much thereof as may be necessary;

for books, binding and supplies for the court of appeals library at Syracuse, one thousand one hundred fifty dollars ($1,150), to be paid upon the certificate of the librarian thereof;

for books, binding and supplies for the library of the appellate division of the supreme court in the first judicial department, one thousand dollars ($1,000), or so much thereof as may be necessary, to be paid upon vouchers approved by the presiding justice of said court;

for the library of the appellate division of the supreme court in the second judicial department, one thousand dollars ($1,000), or so much thereof as may be necessary, to be paid upon vouchers approved by the presiding justice of said court;

for the library of the appellate division of the supreme court in the third judicial department, one thousand dollars ($1,000), or so much thereof as may be necessary, to be paid upon vouchers approved by the presiding justice of said court;

for the library of the appellate division of the supreme court in the fourth judicial department, one thousand five hundred dollars ($1,500), or so much thereof as may be necessary, to be paid upon vouchers approved by the presiding justice of said court, and for the salary of the librarian, three thousand dollars ($3,000), which latter amount is to be refunded pursuant to the provisions of chapter two hundred fifty-eight, laws of nineteen hundred;

for the library of the trial terms of the supreme court in the first judicial department, one thousand dollars ($1,000), or so much thereof as may be necessary;

for the eighth judicial district library at Buffalo, one thousand dollars ($1,000), or so much thereof as may be necessary.

SUPREME COURT.

For the salaries:

of the justices of the supreme court, five hundred sixty-four thousand dollars ($564,000), and for the expenses of said justices, other than those in the first judicial district, as provided by chapter five hundred forty-one, laws of eighteen hundred seventy-two, seventy-six thousand eight hundred dollars ($76,800);

for compensation of justices of the supreme court designated to the appellate division of the second department from any district other than the second judicial district, to be refunded to the treasury, pursuant to chapter three hundred nine, laws of eighteen hundred ninety-eight, and chapter five hundred ninety-seven, laws of nineteen hundred one, forty-one thousand two hundred dollars ($41,200);

for the compensation of the deputy clerk and attendants of the appellate division of the supreme court in the second judicial department, pursuant to chapter ninety-nine, laws of eighteen hundred ninety-six, as amended by chapter two hundred twenty-three, laws of eighteen hundred ninety-seven, and chapter four hundred fifty, laws of nineteen hundred, twelve thousand dollars ($12,000), to be refunded to the treasury as provided by said laws;

for the compensation of confidential attendants of the appellate division of the supreme court, in the second judicial department, pursuant to chapter five hundred ninety-seven, laws of nineteen hundred two, as amended by chapter three hundred eighty-four, laws of nineteen hundred five, three thousand six hundred dollars ($3,600), to be refunded to the treasury as provided by said laws;

for the necessary expenses of the several justices assigned to the appellate division of the supreme court, pursuant to chapter three hundred ninety, laws of eighteen hundred ninety-six, and chapter four hundred sixty-eight, laws of nineteen hundred one, twenty-four thousand dollars ($24,000), or so much thereof as may be necessary;

for the justices of the supreme court residing in the territory formerly composing the second judicial district, not residing in the county of Kings, namely, those residing in the present second and ninth districts outside of said county, for additional compensation, pursuant to chapter seven hundred sixty-five, laws of

eighteen hundred sixty-eight, as amended by chapter one hundred twenty-six, laws of eighteen hundred eighty-three, and chapter one hundred thirty-one, laws of eighteen hundred ninety-eight, ninety-two thousand seven hundred dollars ($92,700); and for the stenographers residing in the counties composing the present second and ninth judicial districts and appointed under said first named act as amended by chapter one hundred fourteen, laws of eighteen hundred ninety-four, for compensation, fifteen thousand dollars ($15,000), to be paid only from moneys which shall have been or shall be paid into the treasury for taxes levied for the purposes of said acts and in pursuance thereof;

for trial justices, who attend a term or part of the supreme court, except in the counties of New York and Kings, outside the county in which they reside, for actual and necessary traveling and other expenses, incurred pursuant to chapter four hundred thirty-one, laws of nineteen hundred, twelve thousand dollars ($12,000), or so much thereof as may be necessary;

for the stenographers of the supreme court, in the third, fourth, fifth, sixth, seventh and eighth judicial districts, for compensation, pursuant to sections two hundred fifty-eight and two hundred fifty-nine of the code of civil procedure, sixty thousand dollars ($60,000), to be refunded to the treasury pursuant to chapter four hundred twenty-six, laws of eighteen hundred ninety;

for additional stenographers in the third and fourth judicial districts, for compensation and for actual and necessary expenses, eight thousand dollars ($8,000), to be refunded to the treasury pursuant to chapter two hundred fifty-eight, laws of eighteen hundred ninety-three;

for compensation of confidential clerks to the justices of the supreme court, other than justices of the appellate division, residing in the second judicial district, not including the county of Kings, nine thousand dollars ($9,000), or so much thereof as may be necessary, to be refunded to the treasury pursuant to chapter eight hundred ninety-two, laws of eighteen hundred ninety-six, and chapter seven hundred forty-seven, laws of nineteen hundred four;

for compensation of confidential clerks to resident trial justices of the supreme court in the fifth judicial district, seven thousand two hundred dollars ($7,200), or so much thereof as may be necessary, to be refunded to the treasury pursuant to chapter eight hundred ninety-three, laws of eighteen hundred ninety-six, and

chapter one hundred forty-five, laws of eighteen hundred ninety-seven:

for compensation of confidential clerks to resident trial justices of the supreme court in the sixth and seventh judicial districts, to be refunded to the treasury, pursuant to chapter three hundred twenty-six, laws of eighteen hundred ninety-eight, ten thousand eight hundred dollars ($10,800), or so much thereof as may be necessary;

for compensation of confidential clerks to resident trial justices of the supreme court in the eighth judicial district, to be refunded to the treasury, pursuant to chapter one hundred six, laws of eighteen hundred ninety-nine, two thousand four hundred dollars ($2,400), or so much thereof as may be necessary;

for compensation of confidential clerks to resident trial justices of the supreme court in the ninth judicial district, seven thousand dollars ($7,000), or so much thereof as may be necessary, to be refunded to the treasury pursuant to chapter six hundred ninety-six, laws of nineteen hundred six;

for compensation of confidential clerks to the justices of the supreme court designated to the appellate division of the second department, seventeen thousand five hundred dollars ($17,500), or so much thereof as may be necessary, to be refunded to the treasury pursuant to chapter two hundred fifty-one, laws of nineteen hundred;

for the compensation of case and consultation clerk of the appellate division of the supreme court in the second judicial department, pursuant to chapter eighty-eight, laws of nineteen hundred seven, two thousand four hundred dollars ($2,400), to be refunded to the treasury as provided by said law;

for the compensation of the consultation clerk of the appellate division of the fourth department, two thousand one hundred dollars ($2,100), and of the deputy clerk of said appellate division, one thousand five hundred dollars ($1,500), and for the deputy clerk of the appellate division of the third department, two thousand dollars ($2,000), to be refunded to the treasury as provided by section two hundred twenty-one of the code of civil procedure;

for expenses of the appellate divisions of the supreme court. for compensation of clerks, criers, attendants, and of stenographers and clerks to the justices and for their actual and neces-

sary expenses, forty thousand dollars ($40,000), or so much thereof as may be necessary;

for compensation of two confidential clerks appointed by the justices of the appellate division of the supreme court in the second judicial department, seven thousand dollars ($7,000), or so much thereof as may be necessary, to be refunded to the treasury pursuant to the provisions of chapter five hundred sixty, laws of nineteen hundred seven.

STATE REPORTER.

For the salaries:

of the state reporter, five thousand dollars ($5,000);

deputy state reporter, three thousand seven hundred dollars ($3,700);

of the managing clerk, two thousand one hundred dollars ($2,100);

law clerk, two thousand dollars ($2,000).

For rent, furniture, books, stationery, messages and other necessary incidental office expenses, eleven hundred twenty-five dollars ($1,125).

SUPREME COURT REPORTER.

For the salaries:

of the supreme court reporter pursuant to chapter one hundred sixty-four, laws of nineteen hundred five, five thousand dollars ($5,000);

deputy supreme court reporter, two thousand five hundred dollars ($2,500);

secretary, two thousand dollars ($2,000);

of the employees according to grade:

eighth grade, one employee, one thousand eight hundred dollars ($1,800);

seventh grade, one employee, one thousand five hundred dollars ($1,500);

sixth grade, one employee, one thousand dollars ($1,000);

fifth grade, one employee, nine hundred dollars ($900);

fourth grade, one employee, seven hundred twenty dollars ($720);

second grade, one employee, four hundred fifty dollars ($450).

For rent, furniture, books, stationery, messages and other necessary incidental office expenses, two thousand dollars ($2,000), or so much thereof as may be necessary.

MISCELLANEOUS REPORTER.

For the salaries:

of the miscellaneous reporter, four thousand five hundred dollars ($4,500);

of the employees according to grade:

seventh grade, one employee, one thousand five hundred dollars ($1,500);

sixth grade, two employees, two thousand two hundred dollars ($2,200).

For rent, furniture, books, stationery, messages and other necessary incidental office expenses and procuring copies of opinions, one thousand dollars $1,000), or so much thereof as may be necessary.

COURT OF CLAIMS.

For the salaries:

of the judges of the court of claims, twenty-four thousand dollars ($24,000);

of the clerk, four thousand dollars ($4,000);

deputy clerk, three thousand dollars ($3,000);

court stenographer, two thousand five hundred dollars ($2,500);

of the employees according to grade:

sixth grade, marshal, including his services as messenger, one thousand two hundred dollars ($1,200);

fifth grade, one employee, nine hundred dollars ($900);

fourth grade, one employee, seven hundred twenty dollars ($720);

third grade, one employee, six hundred dollars ($600).

For the actual and necessary traveling expenses of the clerk, deputy clerk, stenographer and marshal in the performance of their official duties elsewhere than in Albany, and for furniture, books, printing, stationery and other necessary incidental office expenses, two thousand seven hundred fifty dollars ($2,750), or so much thereof as may be necessary.

LEGISLATURE.

For the compensation and mileage of members and officers of the legislature, five hundred thousand dollars ($500,000), or so much thereof as may be necessary.

For advances by the comptroller to the clerks of the senate and assembly, for contingent expenses, including books, blanks, stationery, printing, law books and binding of books and records for the senate and assembly libraries, revising clerk's manual, books and blanks, preparation, proof reading and comparison of journals and documents, clerical and stenographic services, furniture and alteration of legislative rooms, care of bills and documents, expenses of receiving reports and printed documents and the storing, addressing and forwarding the same, file boards, record books and legislative supplies and expenses, twenty-five thousand dollars ($25,000), or so much thereof as may be necessary.

For postage, express and transportation of letters, reports, documents and other matters sent by express or freight, including boxes and coverings for same, expenses of committees, compensation of witnesses, legislative manual, clerk's manual, law and reference books and publications for the senate and assembly libraries, committees and legislature, indexing the bills, journals and documents of the senate and assembly, extra clerical service and engrossing, furniture and alteration of legislative rooms and other contingent expenses of the legislature, thirty thousand dollars ($30,000), or so much thereof as may be necessary.

for compensation and necessary incidental office expenses during the legislative session, of persons appointed under section twenty-three of the legislative law to draft, examine and revise bills, and furnish session indices and digests, eight thousand seven hundred dollars ($8,700), or so much thereof as may be necessary, to be paid upon the certificate of the temporary president of the senate and the speaker of the assembly.

OFFICE OF THE SECRETARY OF STATE.

For the salaries:

of the secretary of state, five thousand dollars ($5,000);

deputy secretary of state, four thousand dollars ($4,000);

chief clerk, three thousand dollars ($3,000);

examiner of corporations, two thousand seven hundred dollars ($2,700);

land clerk, two thousand seven hundred dollars ($2,700);

of the employees according to grade:

tenth grade, one employee, two thousand two hundred dollars ($2,200);
ninth grade, two employees, four thousand dollars ($4,000);
seventh grade, four employees, six thousand dollars ($6,000);
sixth grade, eight employees, eight thousand eight hundred dollars ($8,800);
fifth grade, twelve employees, ten thousand eight hundred dollars ($8,800);
third grade, one employee, six hundred dollars ($600), or so much thereof as may be necessary.

For the purpose of complying with the provisions of subdivision six of section thirty-four of the election law, and of section ten of chapter six hundred eighty-nine, laws of nineteen hundred five, nine thousand five hundred eighty-six dollars ($9,586), or so much thereof as may be necessary.

For the purpose of complying with the provisions of section nineteen, and subdivision one of section thirty-six of the election law, eight thousand dollars ($8,000), or so much thereof as may be necessary.

For the actual and necessary traveling expenses of the secretary of state and his deputy in the performance of their official duties, five hundred dollars ($500), or so much thereof as may be necessary.

For furniture, books, binding, blanks, messages and other necessary incidental office expenses, five thousand dollars ($5,000), or so much thereof as may be necessary.

For postage and transportation of letters, official documents, session laws, election laws and blanks, legislative documents, and other matter sent by express or freight, including boxes or covering for same, four thousand five hundred dollars ($4,500), or so much thereof as may be necessary.

OFFICE OF THE COMPTROLLER.

For the salaries:

of the comptroller, six thousand dollars ($6,000);
deputy comptroller, five thousand dollars ($5,000);
second deputy comptroller, four thousand five hundred dollars ($4,500);
private secretary to the comptroller, two thousand seven hundred dollars ($2,700).

FINANCE BUREAU.

assistant warrant clerk, three thousand dollars ($3,000);
voucher clerk, two thousand five hundred dollars ($2,500);
of the employees according to grade:
tenth grade, one employee, two thousand three hundred dollars ($2,300);
ninth grade, one employee, two thousand dollars ($2,000);
eighth grade, one employee, one thousand eight hundred dollars ($1,800);
seventh grade, three employees, four thousand five hundred dollars ($4,500);
sixth grade, five employees, five thousand four hundred dollars ($5,400), or so much thereof as may be necessary.

LAND BUREAU.

chief clerk, three thousand dollars ($3,000);
of the employees according to grade:
ninth grade, one employee, two thousand dollars ($2,000);
eighth grade, four employees, six thousand nine hundred dollars ($6,900);
seventh grade, six employees, nine thousand dollars ($9,000);
sixth grade, two employees, two thousand two hundred dollars ($2,200), or so much thereof as may be necessary.

For protecting and perfecting the state's title to lands, one thousand dollars ($1,000), or so much thereof as may be necessary.

TRANSFER TAX BUREAU.

chief clerk, three thousand dollars ($3,000);
of the employees according to grade:
tenth grade, one employee, two thousand four hundred dollars ($2,400);
ninth grade, one employee, two thousand one hundred dollars ($2,100);
seventh grade, six employees, eight thousand nine hundred dollars ($8,900);
sixth grade, three employees, three thousand six hundred dollars ($3,600);

fifth grade, three employees, two thousand seven hundred dollars ($2,700), or so much thereof as may be necessary.

CORPORATION TAX BUREAU.

chief clerk, three thousand five hundred dollars ($3,500);
of the employees according to grade:
eighth grade, one employee, one thousand eight hundred dollars ($1,800);
seventh grade, four employees, five thousand nine hundred dollars ($5,900);
sixth grade, three employees, three thousand six hundred dollars ($3,600);
fifth grade, one employee, nine hundred dollars ($900), or so much thereof as may be necessary.

NEW YORK CITY OFFICE.

commissioner, three thousand dollars ($3,000);
of the employees, according to grade:
seventh grade, one employee, one thousand five hundred dollars ($1,500);
third grade, one employee, six hundred dollars ($600).

MORTGAGE TAX, MUNICIPAL ACCOUNTS, AND COURT AND TRUST FUND EXAMINATIONS.

For the salary of:

the chief accountant, two thousand five hundred dollars ($2,500);

for examination of the accounts of the several counties, cities of the second and third classes and incorporated villages of the state, pursuant to chapter seven hundred five, laws of nineteen hundred five, as amended by chapter two hundred fifteen, laws of nineteen hundred seven, the sum of ten thousand dollars (re. $10,000), being a portion of the unexpended balance of appropriation made by chapter five hundred and seventy-eight, laws of nineteen hundred seven, for supervision and examination of accounts, is hereby reappropriated for the services of examiners, and the further sum of fourteen thousand dollars ($14,000) is appropriated for the same purpose;

for the actual and necessary traveling expenses of examiners in the performance of their official duties, seven thousand five hundred dollars ($7,500);

for stenographic and clerical services, two thousand one hundred dollars ($2,100);

for printing and necessary incidental office expenses, nine hundred dollars ($900);

for the services of examiners in the examination of the accounts of the several county treasurers of the state, as required by chapter six hundred fifty-one, laws of eighteen hundred ninety-two, sixteen thousand dollars ($16,000);

for the actual and necessary traveling expenses of examiners, in the performance of their official duties, three thousand dollars ($3,000), or so much thereof as may be necessary.

STOCK TRANSFER TAX BUREAU.

chief clerk, two thousand five hundred dollars ($2,500);

stenographer, nine hundred dollars ($900).

For services of examiners, nine thousand five hundred dollars ($9,500), and for their actual and necessary traveling expenses in the performance of their official duties, for dies, plates and printing necessary for the manufacture of stamps and for stationery, books, blanks and other necessary incidental expenses, five thousand dollars ($5,000), or so much thereof as may be necessary.

MISCELLANEOUS.

For the comptroller, one thousand dollars ($1,000); for the deputy comptroller, five hundred dollars ($500); and for the second deputy comptroller, two hundred fifty dollars ($250), or so much thereof as may be necessary for their actual and necessary traveling expenses while in the performance of their official duties.

For messenger and other service:

fifth grade, two employees, one thousand eight hundred dollars ($1,800);

second grade, one employee, three hundred sixty-five dollars ($365);

for temporary clerical service, two thousand dollars ($2,000), or so much thereof as may be necessary.

For salary and expenses of examiner appointed by the governor, pursuant to chapter four hundred fourteen, laws of eighteen hundred ninety-nine, to examine the books of the running associations, three thousand dollars ($3,000), and for salaries and

expenses of two examiners to examine the books of the trotting associations of the state, four thousand dollars ($4,000), or so much thereof as may be necessary; the amounts herein appropriated to be paid from the funds collected from said associations.

For furniture, books, binding, blanks, printing, messages and other necessary incidental office expenses including rent of New York city office, fourteen thousand dollars ($14,000), or so much thereof as may be necessary.

For postage and transportation of letters, official documents, and other matters sent by express or freight, including boxes or covering for same, six thousand dollars ($6,000), or so much thereof as may be necessary.

BUREAU OF CANAL AFFAIRS.

Payable from Canal Fund.

chief clerk, three thousand dollars ($3,000);
of the employees according to grade:
eighth grade, two employees, three thousand five hundred dollars ($3,500);
sixth grade, one employee, one thousand dollars ($1,000), or so much thereof as may be necessary.

For night watchman, three hundred sixty-five dollars ($365); for the Bank of Manhattan Company, New York, for keeping transfer office and for stationery for same, one thousand four hundred dollars ($1,400), or so much thereof as may be necessary.

For salary of transfer agent, seven hundred fifty dollars ($750).

For printing, advertising and other necessary incidental office expenses of the bureau, one thousand eight hundred dollars ($1,800), or so much thereof as may be necessary.

BUREAU OF HIGHWAYS.

Payable from the Highway Fund.

of the employees according to grade:
seventh grade, one employee, one thousand five hundred dollars ($1,500);
fifth grade, one employee, nine hundred dollars ($900).

STATIONERY.

For stationery for the governor, secretary of state, comptroller, treasurer, attorney-general, state engineer and surveyor, com-

missioner of education, adjutant-general, clerk of the court of appeals, state board of charities, state department of health, civil service commission, superintendent of public buildings, fiscal supervisor of state charities, and department of labor, twelve thousand dollars ($12,000), or so much thereof as may be necessary.

OFFICE OF THE TREASURER.

For the salaries:

of the treasurer, five thousand dollars ($5,000);
deputy treasurer, four thousand dollars ($4,000);
cashier, two thousand seven hundred dollars ($2,700);
of the employees according to grade:
tenth grade, two employees, four thousand eight hundred dollars ($4,800);
eighth grade, one employee, one thousand eight hundred dollars ($1,800);
seventh grade, three employees, four thousand three hundred dollars ($4,300);
sixth grade, one employee, one thousand dollars ($1,000);
fifth grade, one employee, nine hundred dollars ($900);
fourth grade, one employee, seven hundred twenty dollars ($720), or so much thereof as may be necessary.

For the actual and necessary traveling expenses of the state treasurer and his deputy in the performance of their official duties, one thousand dollars ($1,000), or so much thereof as may be necessary.

For postage and transportation of letters, official documents and other matter sent by express or freight, including boxes or covering for same, nine hundred dollars ($900), or so much thereof as may be necessary.

For furniture, books, binding, blanks, printing and other necessary incidental office expenses of the treasurer, two thousand dollars ($2,000), or so much thereof as may be necessary.

OFFICE OF THE ATTORNEY-GENERAL.

For the salaries:

of the attorney-general, five thousand dollars ($5,000);
first and second deputies, four thousand dollars each ($8,000);
four deputies, four thousand dollars each, sixteen thousand dollars ($16,000);

one deputy, three thousand dollars ($3,000);
one assistant to the deputy, three thousand five hundred dollars ($3,500);
one assistant deputy, two thousand four hundred dollars ($2,400);
two deputies, five thousand dollars ($5,000);
land and tax clerk, three thousand dollars ($3,000);
of the employees according to grade:
ninth grade, one employee, two thousand dollars ($2,000);
eighth grade, one employee, one thousand eight hundred dollars ($1,800);
seventh grade, three employees, four thousand five hundred dollars ($4,500);
sixth grade, three employees, three thousand six hundred dollars each ($3,600);
third grade, one employee, six hundred dollars ($600), or so much thereof as may be necessary.

For the personal expenses and disbursements of the attorney-general in the performance of his official duties, one thousand six hundred dollars ($1,600), and of the first and second deputies of the attorney-general in the performance of their official duties, one thousand dollars each ($2,000), pursuant to sections fifty and fifty-one of the executive law.

For furniture, books, binding, blanks, printing, messages, postage, and the transportation of letters, documents and other matter sent by express or freight, including boxes or covering for the same and other necessary incidental office expenses, eight thousand dollars ($8,000), or so much thereof as may be necessary.

NEW YORK CITY BUREAU.

For the salaries:
of the deputy, four thousand dollars ($4,000);
two deputies, five thousand two hundred dollars ($5,200);
of the employees according to grade:
seventh grade, one employee, one thousand five hundred dollars ($1,500);
third grade, three employees, one thousand eight hundred dollars ($1,800), or so much thereof as may be necessary.

For the compensation of special counsel, at not to exceed ten dollars per day, each to be designated on the written order of the

attorney-general or the New York city deputy of the attorney-general, for office rent, furniture, books, binding, blanks, postage, messages and other necessary incidental office expenses, six thousand five hundred dollars ($6,500), or so much thereof as may be necessary.

Said New York city bureau shall keep a docket, in which shall be entered a record of all cases and proceedings pending, of a civil or criminal nature, in which the people of the state of New York, or any officer or department of the state, shall be a party, represented by the said New York city deputy or his assistant or special counsel, and shall make a report daily of his proceedings in all such cases and proceedings to the attorney-general. The said New York city deputy shall have, under the direction of the attorney-general, immediate charge of all matters referred to in section fifty-seven of the executive law, the agricultural law, and all matters in which the attorney-general represents the state, arising or existing within the limits of New York city, and all fees, costs and fines collected by the New York city deputy or by his assistants, shall, on the day of the receipt thereof, be transmitted to the attorney-general, who shall deposit the same with the treasurer of the state of New York.

OFFICE OF THE STATE ENGINEER AND SURVEYOR.

For the salaries:

of the state engineer and surveyor, five thousand dollars ($5,000);

deputy state engineer and surveyor, five thousand dollars ($5,000);

chief clerk, three thousand dollars ($3,000);

of the employees according to grade:

ninth grade, one employee, two thousand dollars ($2,000);

eighth grade, one employee, one thousand eight hundred dollars ($1,800);

sixth grade, four employees, four thousand one hundred dollars ($4,100);

third grade, two employees, one thousand one hundred forty dollars ($1,140), or so much thereof as may be necessary.

For the supervision of the expenditure of moneys for the repair and maintenance of public highways in towns under the money

system, pursuant to sections fifty-five-c and fifty-five-d of the highway law, thirty thousand dollars ($30,000), or so much thereof as may be necessary.

For furniture, books, binding, blanks, printing and other necessary incidental office expenses, three thousand dollars ($3,000), or so much thereof as may be necessary.

For postage and transportation of letters, official documents and other matter sent by express or freight, including boxes or covering for same, two thousand dollars ($2,000), or so much thereof as may be necessary.

For the actual and necessary traveling expenses of the state engineer and surveyor, in the performance of his official duties, two thousand dollars ($2,000), and of the deputy state engineer and surveyor, in the performance of his official duties, one thousand dollars ($1,000), or so much thereof as may be necessary.

PAYABLE FROM THE CANAL FUND.

For salaries and compensation of the engineers employed upon the ordinary repairs of canals, thirty thousand dollars ($30,000), or so much thereof as may be necessary.

DEPARTMENT OF AGRICULTURE.

For the salaries:

of the commissioner of agriculture, four thousand dollars ($4,000);

one assistant commissioner, three thousand dollars ($3,000);

chief chemist, three thousand dollars ($3,000);

assistant chemist, two thousand dollars ($2,000);

chemists, bacteriologists, physiologists and other scientific employees, five thousand dollars ($5,000), or so much thereof as may be necessary; which amount is hereby reappropriated from the unexpended balance of appropriation made by chapter six hundred eighty-three, laws of nineteen hundred six;

veterinarians, three thousand dollars ($3,000), or so much thereof as may be necessary;

confidential agent, two thousand dollars ($2,000);

of the employees according to grade:

eighth grade, one employee, one thousand eight hundred dollars ($1,800);

seventh grade, nine assistant commissioners, three thousand dollars (re. $3,000), which amount is hereby reappropriated from the unexpended balance of appropriation made by chapter six hundred eighty-three, laws of nineteen hundred six, and the further sum of ten thousand five hundred dollars ($10,500);

six cheese instructors, nine thousand dollars ($9,000);

four butter instructors, six thousand dollars ($6,000);

chief of the bureau of agricultural statistics, one thousand five hundred dollars ($1,500);

one employee, one thousand five hundred dollars ($1,500);

sixth grade, thirty-seven special agents, forty-three thousand six hundred dollars ($43,600);

three employees, three thousand two hundred dollars ($3,200);

fifth grade, nine agents, seven thousand five hundred dollars ($7,500);

two employees, one thousand eight hundred dollars ($1,800);

fourth grade, one employee of the bureau of agricultural statistics, seven hundred twenty dollars ($720);

first grade, one employee, three hundred sixty dollars ($360), or so much thereof as may be necessary.

For maintenance of farmers' institutes held under the auspices of the commissioner of agriculture, to be paid upon the order of said commissioner, and certified in sums as needed, and for which vouchers for expenditures duly audited and verified by him shall be rendered, twenty thousand dollars ($20,000), or so much thereof as may be necessary.

For the actual and necessary traveling expenses of the assistant commissioners, and employees except the assistant commissioner located at Albany, in the performance of their official duties, and for the actual and necessary incidental expenses of the depart-

ment, sixty thousand dollars ($60,000), or so much thereof as may be necessary.

For the commissioner of agriculture, one thousand dollars ($1,000), or so much thereof as may be necessary, for the actual and necessary traveling expenses of himself and of the assistant commissioner located at Albany in the discharge of their official duties.

NURSERY INSPECTION.

For commissioner of agriculture for the purpose of investigation and extermination of San Jose scale and other dangerously infectious or contagious insect pest or pests, twenty-five thousand dollars ($25,000), or so much thereof as may be necessary.

BUREAU OF INFORMATION AND STATISTICS.

For the actual and necessary incidental expenses as provided by article fourteeen* of the agricultural law, seven thousand five hundred dollars ($7,500), or so much thereof as may be necessary.

AGRICULTURAL EXPERIMENT STATION AT GENEVA.

To the commissioner of agriculture, for the New York state agricultural experiment station, for enforcing the provisions of law in relation to commercial fertilizers, pursuant to chapter four hundred thirty-seven, laws of eighteen hundred ninety, and chapter nine hundred fifty-five, laws of eighteen hundred ninety-six, and chapter six hundred eighty-seven, laws of eighteen hundred ninety-nine, and for the expense of bulletins as provided therein, and any acts amendatory thereof, ten thousand dollars ($10,000), or so much thereof as may be necessary, to be paid from license fees received by the state treasurer on fertilizers.

For the expense of enforcing the provisions of the law in relation to concentrated feeding stuffs, as shall be authorized by the board of control, pursuant to chapter five hundred ten, laws of eighteen hundred ninety-nine and the acts amendatory thereof, to be paid from license fees received by the state treasurer on concentrated feeding stuffs, three thousand five hundred dollars ($3,500), or so much thereof as may be necessary.

To the board of control for the agricultural experiment station at Geneva:

* So in original.

for the salaries of the scientific staff and clerical force, thirty-one thousand dollars ($31,000), or so much thereof as may be necessary;

for labor, including engineers, janitors, laboratory helpers, gardeners, herdsmen, teamsters, poultrymen, watchmen and other necessary labor, thirteen thousand dollars ($13,000), or so much thereof as may be necessary;

for necessary expenses in conducting researches in plant nutrition, diseases of plants, injurious insects, bacteriology, animal nutrition, dairy practice and poultry keeping, twenty thousand dollars ($20,000), or so much thereof as may be necessary;

for general expenses including heat, light, water, equipment of scientific apparatus, and farm implements and machinery and general repairs, four thousand dollars ($4,000), or so much thereof as may be necessary;

for horticultural instruction, and for the purpose of conducting horticultural investigations and experiments, and for disseminating the information so obtained, as provided for in and pursuant to section eighty-five of the agricultural law, eight thousand dollars ($8,000), or so much thereof as may be necessary.

OFFICE OF STATE ARCHITECT.

For the salaries:

of the state architect, seven thousand five hundred dollars ($7,500);

deputy state architect, five thousand dollars ($5,000);

private secretary, two thousand dollars ($2,000);

chief draughtsman, three thousand dollars ($3,000);

engineer-in-chief, two thousand seven hundred fifty dollars ($2,750);

two engineering inspectors, four thousand two hundred fifty dollars ($4,250);

electrical engineer, two thousand two hundred dollars ($2,200);

structural engineer, two thousand dollars ($2,000);

heating engineer, two thousand dollars ($2,000);

engineer, two thousand dollars ($2,000);

draughtsmen and tracers, thirty thousand dollars ($30,000), or so much thereof as may be necessary;

of the employees according to grade:

seventh grade, one employee, one thousand five hundred dollars ($1,500);

sixth grade, five employees, five thousand three hundred eighty dollars ($5,380);
fifth grade, one employee, nine hundred dollars ($900);
third grade, one employee, six hundred dollars ($600);
first grade, one employee, three hundred sixty dollars ($360), or so much thereof as may be necessary.

For the salaries:
of building inspectors, eighteen thousand dollars ($18,000), or so much thereof as may be necessary.

For office supplies and expenses, four thousand dollars, ($4,000), or so much thereof as may be necessary.

For actual and necessary traveling expenses of the state architect and his employees in the performance of official duties, four thousand dollars ($4,000), or so much thereof as may be necessary.

BANKING DEPARTMENT.

For the salaries:
of the superintendent, seven thousand dollars ($7,000), and for his actual and necessary traveling expenses in the performance of his official duties, five hundred dollars ($500), or so much thereof as may be necessary;
of the first deputy superintendent, five thousand dollars ($5,000);
confidential and financial clerk and private secretary, three thousand five hundred dollars ($3,500);
deputy superintendent in New York city, four thousand five hundred dollars ($4,500);
of the employees according to grade:
sixth grade, eight employees, eight thousand eight hundred dollars ($8,800);
fifth grade, one employee, nine hundred dollars ($900);
second grade, night watchman, four hundred twenty dollars ($420), or so much thereof as may be necessary.

For rent of branch office in the city of New York, two thousand dollars ($2,000), or so much thereof as may be necessary.

For furniture, books, binding, blanks, printing and other necessary incidental office expenses, eight thousand five hundred dollars ($8,500), or so much thereof as may be necessary.

For the salaries:

of the deputy in charge of bureau of building and loan associations and foreign corporations, four thousand dollars ($4,000);

of the employees according to grade:

seventh grade, one employee, one thousand five hundred dollars ($1,500);

sixth grade, stenographer, one thousand dollars ($1,000).

For a contingent fund to be used to pay the expenses of appraising property and other contingent expenses in connection with the administration of the banking department, one thousand dollars (re. $1,000), being the unexpended appropriation for the expenses of appraising property by chapter five hundred seventy-seven, laws of nineteen hundred six.

For the payment of the examiners for the examination of corporations and individual bankers, pursuant to the provisions of the banking law, one hundred thousand dollars ($100,000), or so much thereof as may be necessary.

The amounts required for the aforesaid salaries, clerk hire, payment of examiners and other expenses above mentioned shall be refunded to the treasury pro rata, according to the aggregate resources of each, by the savings banks, trust companies, banks, individual bankers, safe deposit companies, securities companies, mortgage loan and investment corporations or associations, and co-operative loan associations that are subject to the supervision of the superintendent of banks and required by law to make reports to the banking department.

STATE BOARD OF CHARITIES.

For the salary of the secretary, three thousand five hundred dollars ($3,500).

For compensation of twelve commissioners, as provided by chapter five hundred forty-six, laws of eighteen hundred ninety-six, two thousand dollars ($2,000), or so much thereof as may be necessary.

For the salaries:

of the superintendent of inspection, two thousand five hundred dollars ($2,500);

of the employees according to grade:

eighth grade, one employee, one thousand eight hundred dollars ($1,800);

sixth grade, three employees, three thousand six hundred dollars ($3,600);

fourth grade, five employees, three thousand six hundred dollars ($3,600), or so much thereof as may be necessary.

For temporary help, five hundred dollars ($500), or so much thereof as may be necessary.

For the actual and necessary expenses of the commissioners and secretary in the performance of their official duties, two thousand five hundred dollars ($2,500), or so much thereof as may be necessary.

For the actual and necessary traveling expenses of the employees of the department in the performance of their official duties, one thousand dollars ($1,000), or so much thereof as may be necessary.

For furniture, rent, books, blanks, printing and other necessary and incidental office expenses, six thousand five hundred dollars ($6,500), or so much thereof as may be necessary.

For postage, and transportation of letters, official documents and other matter sent by express or freight, including boxes or covering for same, one thousand five hundred dollars ($1,500), or so much thereof as may be necessary.

NEW YORK OFFICE.

For the salaries:

of the superintendent, one thousand five hundred dollars ($1,500);

of the employees according to grade:

seventh grade, one employee, one thousand four hundred dollars ($1,400);

sixth grade, one employee, one thousand two hundred dollars ($1,200);

fifth grade, two employees, one thousand eight hundred dollars ($1,800);

fourth grade, one employee, seven hundred twenty dollars ($720), or so much thereof as may be necessary.

ROCHESTER OFFICE.

of the employees according to grade:

sixth grade, one employee, one thousand two hundred dollars ($1,200);

third grade, one employee, six hundred dollars ($600).

STATE AND ALIEN POOR.

of the superintendent, three thousand dollars ($3,000);
deputy superintendent in New York city, one thousand five hundred dollars ($1,500);
of the employees according to grade:
ninth grade, one employee, two thousand dollars ($2,000);
seventh grade, one employee, one thousand five hundred dollars ($1,500);
sixth grade, four employees, four thousand eight hundred dollars ($4,800);
fifth grade, one employee, nine hundred dollars ($900);
fourth grade, one employee, seven hundred twenty dollars ($720);
third grade, one employee, six hundred dollars ($600); or so much thereof as may be necessary.

For the actual and necessary traveling expenses of superintendent and inspectors in the performance of their official duties, three thousand seven hundred fifty dollars ($3,750), or so much thereof as may be necessary.

For furniture, books, printing, messages and other necessary incidental office expenses, seven hundred fifty dollars ($750), or so much thereof as may be necessary.

For maintenance, transportation and removal of state, non-resident and alien poor, twenty thousand dollars ($20,000), or so much thereof as may be necessary.

It shall be the duty of the board in its annual report to the legislature to give a complete itemized statement of the expenditures for state paupers during the preceding fiscal year.

CIVIL SERVICE COMMISSION.

For salaries:
of the civil service commissioners, nine thousand dollars ($9,000).

For the actual and necessary expenses of the commissioners in the performance of their official duty: of the president, seven hundred dollars, and of the other commissioners, four hundred dollars each ($1,500) or so much thereof as may be necessary.

ADMINISTRATION DIVISION.

For salaries:
of the secretary, three thousand six hundred dollars ($3,600);
of the employees according to grade:

eighth grade, one employee, one thousand six hundred dollars ($1,600);
sixth grade, one employee, one thousand two hundred dollars ($1,200);
fifth grade, one employee, nine hundred dollars ($900);
third grade, one employee, six hundred dollars ($600);
second grade, one employee, four hundred twenty dollars ($420).

For the actual and necessary traveling expenses of the secretary, in the performance of his official duty, one hundred fifty dollars ($150), or so much thereof as may be necessary.

For furniture, books, printing, blanks, messages and other necessary incidental office expenses and for expenses incurred in the inspection or investigation of the administration of the law and rules, two thousand five hundred dollars ($2,500), or so much thereof as may be necessary.

For postage and transportation of letters, official documents and other matter sent by express or freight, including boxes or covering for same, two thousand dollars ($2,000), or so much thereof as may be necessary.

EXAMINATIONS DIVISION.

For salaries:
of the chief examiner, three thousand six hundred dollars ($3,600);
of the employees according to grade:
ninth grade, one employee, two thousand dollars ($2,000);
seventh grade, one employee, one thousand five hundred dollars ($1,500);
sixth grade, three employees, three thousand four hundred dollars ($3,400);
fifth grade, two employees, one thousand eight hundred dollars ($1,800);
third grade, one employee, six hundred dollars ($600);
first grade, one employee, three hundred sixty dollars ($360), or so much thereof as may be necessary.

For the actual and necessary traveling expenses of the chief examiner, examiners and stenographer in the performance of their official duties, five hundred dollars ($500), or so much thereof as may be necessary.

For the expenses of examinations, and compensation of temporary local and expert examiners to be appointed by the commission, ten thousand dollars ($10,000), or so much thereof as may be necessary.

DEPARTMENT OF EDUCATION.

COMMISSIONER'S OFFICE.

For the salaries:

of the commissioner of education, seven thousand five hundred dollars ($7,500), and for his traveling and other expenses, one thousand five hundred dollars ($1,500) pursuant to chapter forty, laws of nineteen hundred four.

first assistant commissioner, five thousand dollars ($5,000);

second assistant commissioner, five thousand dollars ($5,000);

third assistant commissioner, five thousand dollars ($5,000);

assistant in elementary education, two thousand seven hundred dollars ($2,700);

of the employees according to grade:

seventh grade, one employee, one thousand five hundred dollars ($1,500);

sixth grade, five employees, five thousand six hundred dollars ($5,600);

fourth grade, three employees, two thousand one hundred sixty dollars ($2,160), or so much thereof as may be necessary.

ADMINISTRATION DIVISION.

chief, three thousand dollars ($3,000);

cashier, two thousand five hundred dollars ($2,500);

of the employees according to grade:

seventh grade, one employee, one thousand five hundred dollars ($1,500);

sixth grade, four employees, four thousand four hundred dollars ($4,400);

fifth grade, three employees, two thousand seven hundred dollars ($2,700);

fourth grade, one employee, seven hundred twenty dollars ($720);

third grade, four employees, two thousand four hundred dollars ($2,400);

second grade, four employees, one thousand nine hundred twenty dollars ($1,920), or so much thereof as may be necessary.

COMPULSORY ATTENDANCE DIVISION.

chief, three thousand dollars ($3,000);
of the employees according to grade:
sixth grade, one employee, one thousand dollars ($1,000);
fifth grade, one employee, nine hundred dollars ($900);
first grade, one employee, three hundred sixty dollars ($360).

EXAMINATIONS DIVISION.

chief, four thousand dollars ($4,000);
assistant in charge of teachers' examinations, three thousand dollars ($3,000);
assistant in charge of foreign credentials, two thousand seven hundred dollars ($2,700);
of the employees according to grade:
tenth grade, one employee, two thousand four hundred dollars ($2,400);
eighth grade, three employees, five thousand four hundred dollars ($5,400);
seventh grade, one employee, one thousand five hundred dollars ($1,500);
sixth grade, twelve employees, thirteen thousand six hundred dollars ($13,600);
fifth grade, nineteen employees, seventeen thousand one hundred dollars ($17,100);
fourth grade, ten employees, seven thousand two hundred dollars ($7,200);
third grade, eleven employees, six thousand six hundred dollars ($6,600);
second grade, two employees, nine hundred sixty dollars ($960);
first grade, one employee, three hundred sixty dollars ($360), or so much thereof as may be necessary.

INSPECTIONS DIVISION.

chief, three thousand five hundred dollars ($3,500);
one inspector, three thousand dollars ($3,000);
nine inspectors, twenty-two thousand five hundred dollars ($22,500);
of the employees according to grade:
tenth grade, one employee, two thousand four hundred dollars ($2,400);
ninth grade, three employees, six thousand dollars ($6,000);
sixth grade, two employees, two thousand two hundred dollars ($2,200);
fifth grade, one employee, nine hundred dollars ($900), or so much thereof as may be necessary.

LAW DIVISION.

chief, three thousand five hundred dollars ($3,500);
of the employees according to grade:
seventh grade, one employee, one thousand five hundred dollars ($1,500).

DIVISION OF SCHOOL LIBRARIES.

chief, two thousand five hundred dollars ($2,500);
of the employees according to grade:
tenth grade, one employee, two thousand four hundred dollars ($2,400);
fifth grade, one employee, nine hundred dollars ($900).

STATISTICS DIVISION.

chief, three thousand dollars ($3,000);
of the employees according to grade:
sixth grade, two employees, two thousand four hundred dollars ($2,400);
fifth grade, one employee, nine hundred dollars ($900);
third grade, two employees, one thousand two hundred dollars ($1,200), or so much thereof as may be necessary.

DIVISION OF VISUAL INSTRUCTION.

chief, three thousand dollars ($3,000);
of the employees according to grade:
ninth grade, one employee, two thousand dollars ($2,000);

sixth grade, one employee, one thousand two hundred dollars ($1,200);
fifth grade, one employee, nine hundred dollars ($900);
third grade, three employees, one thousand eight hundred dollars ($1,800);
second grade, one employee, four hundred eighty dollars ($480), or so much thereof as may be necessary.

For the purchase, preparation and distribution of apparatus and material used in administering the system of visual instruction under rules and regulations prescribed by the commissioner of education, five thousand dollars ($5,000), or so much thereof as may be necessary.

THE STATE LIBRARY.

director, five thousand dollars ($5,000);
law librarian, two thousand five hundred dollars ($2,500);
of the employees according to grade:
tenth grade, two employees, four thousand eight hundred dollars ($4,800);
ninth grade, one employee, two thousand one hundred dollars ($2,100);
eighth grade, two employees, three thousand six hundred dollars ($3,600);
seventh grade, five employees, seven thousand five hundred dollars ($7,500);
sixth grade, ten employees, eleven thousand six hundred dollars ($11,600);
fifth grade, nine employees, eight thousand one hundred dollars ($8,100);
fourth grade, twelve employees, eight thousand six hundred forty dollars ($8,640);
third grade, nine employees, five thousand four hundred dollars ($5,400);
second grade, ten employees, four thousand eight hundred dollars ($4,800);
first grade, six employees, two thousand one hundred sixty dollars ($2,160), or so much thereof as may be necessary.

For books, serials and binding pursuant to chapter three hundred seventy-eight, laws of eighteen hundred ninety-two, twenty

thousand dollars ($20,000), or so much thereof as may be necessary.

For the state medical library for books, serials and binding pursuant to chapter three hundred seventy-seven, laws of eighteen hundred ninety-one, two thousand dollars ($2,000), or so much thereof as may be necessary.

For the law library for books, serials and binding, two thousand five hundred dollars ($2,500), or so much thereof as may be necessary.

For books to be loaned free to the blind of the state, one thousand dollars ($1,000), or so much thereof as may be necessary.

LIBRARY SCHOOL.

vice-director, two thousand five hundred dollars ($2,500);
of the employees according to grade:
seventh grade, one employee, one thousand five hundred dollars ($1,500);
sixth grade, one employee, one thousand two hundred dollars ($1,200);
third grade, two employees, one thousand two hundred dollars ($1,200), or so much thereof as may be necessary.

DIVISION OF EDUCATIONAL EXTENSION.

chief, two thousand four hundred dollars ($2,400);
of the employees according to grade:
eighth grade, one employee, one thousand eight hundred dollars ($1,800);
seventh grade, one employee, one thousand five hundred dollars ($1,500);
sixth grade, one employee, one thousand two hundred dollars ($1,200);
fifth grade, one employee, nine hundred dollars ($900);
fourth grade, two employees, one thousand four hundred forty dollars ($1,440);
third grade, three employees, one thousand eight hundred dollars ($1,800);
second grade, three employees, one thousand four hundred forty dollars ($1,440);
first grade, two employees, seven hundred twenty dollars ($720), or so much thereof as may be necessary.

For grants of public money for the benefit of free libraries, in accordance with sections fourteen, forty-seven, forty-eight, and fifty of chapter three hundred seventy-eight, laws of eighteen hundred ninety-two, thirty thousand dollars ($30,000), or so much thereof as may be necessary.

For traveling libraries and books, including traveling libraries for charitable institutions, six thousand dollars ($6,000).

DIVISION OF SCIENCE.

director, state geologist and paleontologist, four thousand dollars ($4,000);

of the employees according to grade:

tenth grade, three employees, seven thousand dollars ($7,000);

ninth grade, one employee, two thousand dollars ($2,000);

seventh grade, four employees, five thousand seven hundred dollars ($5,700);

sixth grade, five employees, five thousand eight hundred twenty dollars ($5,820);

fifth grade, four employees, three thousand four hundred eighty dollars ($3,480);

fourth grade, three employees, two thousand one hundred sixty dollars ($2,160);

third grade, two employees, one thousand two hundred dollars ($1,200);

second grade, one employee, four hundred eighty dollars ($480), or so much thereof as may be necessary.

For the actual and necessary traveling expenses of the director and his assistants in the performance of their official duties, and for necessary temporary services in preserving and increasing the various scientific collections, and for field operations and scientific investigations, five thousand dollars ($5,000), or so much thereof as may be necessary.

TEMPORARY SERVICES.

For temporary services in the several divisions of the education department, except for the division of science and teachers' institutes, eight thousand five hundred dollars ($8,500), or so much thereof as may be necessary. No payments for temporary services in said department shall be made from any other appropriation in this act, except as herein indicated.

POSTAGE, EXPRESS, ETC.

For postage, messages and transportation of letters, official documents, and other matter sent by express or freight, including boxes or coverings for same, twenty-six thousand dollars ($26,000), or so much thereof as may be necessary.

PRINTING.

For all department printing including trustees' reports, school registers, and the Arbor Day circular, twenty-six thousand dollars ($26,000), or so much thereof as may be necessary. No payments for printing for the department of education shall be made from any other appropriation in this act.

TRAVELING EXPENSES.

For actual and necessary traveling expenses incurred in the performance of official duty in the visitation and inspection of common schools, high schools, academies, Indian schools, normal schools, colleges, universities, libraries and other institutions under the supervision of the education department; by the state examinations board and of lectures in the library school, twelve thousand five hundred dollars ($12,500), or so much thereof as may be necessary. No payment for traveling expenses for said department except for the division of science, and for teachers' institutes, shall be made from any other appropriation in this act.

OFFICE EXPENSES AND CARE OF ROOMS.

For services of elevator men, porters, laborers, cleaners, for care of rooms occupied by the department, in the basement, and on the first, third, fourth, fifth, sixth and seventh floors of the capitol, including the state library, six thousand dollars ($6,000), or so much thereof as may be necessary.

For rent of malthouse for storage, one thousand two hundred dollars ($1,200), or so much thereof as may be necessary.

For office fixtures and for furniture and all other necessary incidental expenses, ten thousand eight hundred dollars ($10,800), or so much thereof as may be necessary, of which nine thousand seven hundred twenty-nine dollars and fifty-three cents (re. $9,729.53) is reappropriated from the unexpended balance of the appropriation for salaries for the department made by chapter six hundred eighty-three, laws of nineteen hundred six.

LECTURERS AT FARMERS' INSTITUTES.

For the services of lecturers and instructors at farmers' institutes to be appointed and directed by the state education department, seven thousand five hundred dollars ($7,500), or so much thereof as may be necessary. Such appointees shall render such other services to the department throughout the year when not engaged in visiting farmers' institutes as may be required.

TEACHERS' INSTITUTES.

For the salaries:

of five institute conductors, fifteen thousand dollars ($15,000);

of a special instructor in drawing, two thousand two hundred dollars ($2,200);

of a special instructor in primary work, reading and literature, two thousand dollars ($2,000);

of a special instructor in English, one thousand two hundred dollars ($1,200), or so much thereof as may be necessary.

For actual and necessary traveling expenses and temporary services of additional special instructors at teachers' institutes, city institutes and the university convocation, twenty thousand dollars (re. $20,000) or so much thereof as may be necessary, which is hereby reappropriated from the unexpended balance of the appropriation for the same purpose made by chapter six hundred eighty-three of the laws of nineteen hundred six, and chapter five hundred seventy-seven of the laws of nineteen hundred seven.

TRAINING OF TEACHERS.

For payment to academies and union schools designated by the commissioner of education for the professional training of teachers, pursuant to chapter five hundred fifty-six, laws of eighteen hundred ninety-four, and for the professional training of teachers in cities and villages of the state employing a local superintendent of schools, in accordance with the provision of chapter ten hundred thirty-one, laws of eighteen hundred ninety-five, one hundred thousand dollars ($100,000). Not more than one hundred fifteen training classes shall be established by the commissioner of education in any one year under the provisions of chapter five hundred fifty-six, laws of eighteen hundred ninety-four. Five hundred dollars shall be paid to each school maintaining a class of not less than ten pupils in accordance with

rules and regulations established by the commissioner of education, and such balance as shall remain shall be apportioned among such training classes ratably on the basis of the number of pupils instructed therein in excess of ten.

MAINTENANCE OF INDIAN SCHOOLS.

For the support of Indian schools, eight thousand dollars ($8,000), or so much thereof as may be necessary.

INDIAN EDUCATION IN NORMAL SCHOOLS.

For the support and education of Indian youth in the state normal and training schools pursuant to provisions of chapter eighty-nine, laws of eighteen hundred fifty-one, six hundred dollars ($600), or so much thereof as may be necessary.

NORMAL SCHOOLS.

The sum of twelve thousand dollars (re. $12,000) is hereby reappropriated from any unexpended balances of appropriations heretofore made for the maintenance of the state normal college and the following normal schools, and the further sum of four hundred thirty thousand dollars ($430,000) is hereby appropriated, payable on the approval of the commissioner of education, for the maintenance of said college and normal schools as follows:

of the state normal college at Albany, fifty thousand dollars ($50,000);

of the state normal schools at

Brockport, thirty-six thousand dollars ($36,000);

Buffalo, thirty-six thousand dollars ($36,000);

Cortland, forty-five thousand dollars ($45,000);

Fredonia, thirty-six thousand dollars ($36,000);

Geneseo, forty-five thousand dollars ($45,000);

New Paltz, thirty-six thousand dollars ($36,000);

Oneonta, forty-five thousand dollars ($45,000);

Oswego, thirty-eight thousand dollars ($38,000);

Plattsburg, thirty-three thousand dollars ($33,000);

Potsdam, forty-two thousand dollars ($42,000);

One thousand dollars ($1,000) shall be allowed to the president of the state normal college in addition to his salary in lieu of the residence heretofore provided and destroyed by fire in nineteen hundred six and the sum of three hundred dollars

($300) in addition to salary shall be allowed to the principal of each normal school not provided with a residence by the state.

In addition to the above appropriations ten thousand dollars ($10,000), or so much thereof as may be necessary, is hereby appropriated from the tuition fees and revenues from other sources received by the state treasurer from the several normal schools to be repaid to the schools from which received for their further support and maintenance. No part of the appropriation for the maintenance of normal schools shall be available for insurance of normal school buildings.

SCHOOL COMMISSIONERS.

For the salaries of the school commissioners, one hundred thirteen thousand dollars ($113,000), payable one thousand dollars ($1,000) to each commissioner in the state.

COMMON SCHOOLS.

For the support of the common schools of the state, four million five hundred thousand dollars ($4,500,000), or so much thereof as may be necessary to be apportioned by the commissioner of education as supervision, district and teachers' quotas on the basis provided by title two of the consolidated school law. Before making such apportionment the commissioner of education may set aside not to exceed ten thousand dollars ($10,000) for a contingent fund.

CITIES, ACADEMIES, ACADEMIC DEPARTMENTS AND LIBRARIES.

For the cities, union school districts, academies maintaining academic departments, and public school libraries, five hundred fifty thousand dollars ($550,000) to be apportioned by the commissioner of education under regulations established by him in the manner directed by chapter six hundred eighty-three, laws of nineteen hundred six, for the apportionment of an appropriation for the same purpose; but in the apportionment of moneys for non-resident pupils attending the academic department of public schools as provided in said chapter, the commissioner of education shall include non-resident pupils from districts not maintaining a four-year curriculum, providing such non-resident pupils shall have completed the course of studies maintained by the district in which they reside; and in such ap-

portionment to cities whose customary charge for non-resident pupils is greater than the sum provided in said chapter, the commissioner of education may in his discretion permit the sum so apportioned to be applied upon such customary charge for such non-resident pupils from towns adjacent to such cities, provided the balance of such customary charge shall be assumed by the school district in which such non-resident pupil is resident and the payment thereof shall have been provided for at a school district meeting, held in such district.

The comptroller is hereby authorized to transfer to the general fund to meet the appropriations hereby made for educational purposes, so much of the revenues of the trust funds as may be necessary, not to exceed three hundred forty-nine thousand five hundred dollars ($349,500), as follows:

Common school fund, one hundred seventy-seven thousand dollars ($177,000).

Literature fund, twelve thousand dollars ($12,000).

United States deposit fund, one hundred sixty thousand five hundred dollars ($160,500).

STATE SUPERINTENDENT OF ELECTIONS.

For the Metropolitan Elections District.

For the salaries:

of the state superintendent, five thousand dollars ($5,000);

chief deputy, four thousand five hundred dollars ($4,500);

general counsel, four thousand dollars ($4,000);

secretary, two thousand dollars ($2,000);

field deputy, two thousand dollars ($2,000);

chief clerk, one thousand eight hundred dollars ($1,800);

stenographer, one thousand five hundred dollars ($1,500);

deputy state superintendents of elections, one hundred fifty thousand dollars ($150,000), or so much thereof as may be necessary.

For furniture, books, blanks, printing, stationery, messages and other necessary incidental office expenses, twenty-two thousand five hundred dollars ($22,500), or so much thereof as may be necessary.

STATE DEPARTMENT OF EXCISE.

For the salaries:

of the state commissioner of excise seven thousand dollars ($7,000), and for his actual and necessary traveling expenses in the performance of his official duty, six hundred dollars ($600), or so much thereof as may be necessary;

deputy commissioner, five thousand dollars ($5,000), and for his actual and necessary traveling expenses in the performance of his official duty, five hundred dollars ($500), or so much thereof as may be necessary;

second deputy commissioner, three thousand five hundred dollars ($3,500).

For expenses of special agent service, including salaries of sixty special agents, and salary and expenses of special detective service, one hundred forty thousand dollars ($140,000), or so much thereof as may be necessary.

For legal expenses, including salaries of attorneys and law stenographers for Albany, New York, Brooklyn and Buffalo offices, and compensation, costs, expenses and disbursements of attorneys under section ten of the liquor tax law, seventy thousand dollars ($70,000), or so much thereof as may be necessary.

For furniture, books, blanks, binding, printing, stationery, postage, transportation of letters and official documents and other matter sent by express or freight, including boxes or covering for same, and other necessary and incidental office expenses, including suboffices, eighteen thousand dollars ($18,000), or so much thereof as may be necessary.

For examination of offices of the special deputy commissioners and county treasurers, three thousand dollars ($3,000), or so much thereof as may be necessary.

For expense of enumeration and determining amount of excise taxation in several localities, including supervision, four thousand dollars ($4,000), or so much thereof as may be necessary.

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ALBANY OFFICE.

For the salaries:

of the secretary, two thousand dollars ($2,000);

financial clerk, one thousand eight hundred dollars ($1,800);

chief rebate clerk, two thousand two hundred fifty dollars ($2,250);

auditor, two thousand five hundred dollars ($2,500);

accountant and special examiner, two thousand five hundred dollars ($2,500);

cashier, two thousand seven hundred fifty dollars ($2,750);

of the employees according to grade:

ninth grade, three employees, six thousand dollars ($6,000);

eighth grade, three employees, five thousand two hundred dollars ($5,200);

seventh grade, four employees, six thousand dollars ($6,000);

sixth grade, fifteen employees, sixteen thousand nine hundred forty dollars ($16,940);

fifth grade, six employees, four thousand five hundred dollars ($4,500);

fourth grade, one employee, seven hundred twenty dollars ($720), or so much thereof as may be necessary.

SPECIAL DEPUTY COMMISSIONERS OF EXCISE.

For the one-half part, payable by the state, of the salaries and expenses of the several special deputy commissioners of excise, including office rent and clerical help, office furniture, fixtures and appliances, as provided by section nine of the liquor tax law, to wit:

BOROUGHS OF MANHATTAN AND THE BRONX.

For the salaries:

of the special deputy commissioner, two thousand five hundred dollars ($2,500);

cashier and bookkeeper, one thousand seven hundred fifty dollars ($1,750);

confidential clerk, one thousand dollars ($1,000).

of the employees according to grade:
tenth grade, one employee, one thousand one hundred twenty-five dollars ($1,125);
seventh grade, ten employees, seven thousand five hundred dollars ($7,500);
sixth grade, two employees, one thousand two hundred dollars ($1,200);
fourth grade, one employee, three hundred sixty dollars ($360), or so much thereof as may be necessary.

For rent, four thousand dollars ($4,000), or so much thereof as may be necessary.

BOROUGH OF BROOKLYN.

For the salaries:
of the special deputy commissioner, one thousand eight hundred seventy-five dollars ($1,875);
cashier, one thousand two hundred fifty dollars ($1,250);
of the employees according to grade:
ninth grade, two employees, two thousand dollars ($2,000);
seventh grade, four employees, three thousand dollars ($3,000);
sixth grade, one employee, six hundred dollars ($600), or so much thereof as may be necessary.

For rent, one thousand two hundred dollars ($1,200), or so much thereof as may be necessary.

BOROUGH OF QUEENS.

For the salary of the special deputy commissioner, one thousand two hundred fifty dollars ($1,250), and for expenses of his office, including office rent and clerical help, one thousand one hundred fifty dollars ($1,150), or so much thereof as may be necessary.

BOROUGH OF RICHMOND.

For the salary of the special deputy commissioner, one thousand dollars ($1,000), and for expenses of his office, including office rent and clerical help, two hundred fifty dollars ($250), or so much thereof as may be necessary.

COUNTY OF ERIE.

For the salaries:

of the special deputy commissioner, one thousand five hundred dollars ($1,500);

of the employees according to grade:

ninth grade, one employee, one thousand dollars ($1,000);

seventh grade, two employees, one thousand five hundred dollars ($1,500);

sixth grade, one employee, four hundred eighty dollars ($480), or so much thereof as may be necessary.

For rent, nine hundred dollars ($900), or so much thereof as may be necessary.

COUNTY OF MONROE.

For the salary of the special deputy commissioner, one thousand two hundred fifty dollars ($1,250), and for the expenses of his office, including office rent and clerical help, two hundred fifty dollars ($250), or so much thereof as may be necessary.

COUNTY OF ALBANY.

For the salary of the special deputy commissioner, from January* one, nineteen hundred nine, to September thirty, nineteen hundred nine, seven hundred fifty dollars ($750), and for the expenses of his office, including office rent and clerical help, two hundred fifty dollars ($250), or so much thereof as may be necessary.

COUNTY OF ONONDAGA.

For the salary of the special deputy commissioner, from January* one, nineteen hundred nine, to September thirty, nineteen hundred nine, seven hundred fifty dollars ($750), and for the expenses of his office, including office rent and clerical help, two hundred fifty dollars ($250), or so much thereof as may be necessary.

COUNTY OF ONEIDA.

For the salary of the special deputy commissioner, from January* one, nineteen hundred nine, to September thirty, nineteen hundred nine, five hundred sixty-two dollars fifty cents ($562.50), and for the expenses of his office, including office rent and clerical

* So in original.

help, two hundred fifty dollars ($250), or so much thereof as may be necessary.

COUNTY OF RENSSELAER.

For the salary of the special deputy commissioner, from January* one, nineteen hundred nine, to September thirty, nineteen hundred nine, five hundred sixty-two dollars fifty cents ($562.50), and for the expenses of his office, including office rent and clerical help, two hundred fifty dollars ($250), or so much thereof as may be necessary.

COUNTY OF WESTCHESTER.

For the salary of the special deputy commissioner, from January* one, nineteen hundred nine, to September thirty, nineteen hundred nine, nine hundred thirty-seven dollars fifty cents ($937.50), and for the expenses of his office, including office rent and clerical help, seven hundred fifty dollars ($750), or so much thereof as may be necessary.

COUNTY OF NIAGARA.

For the salary of the special deputy commissioner, from January one, nineteen hundred nine, to September thirty, nineteen hundred nine, five hundred sixty-two dollars fifty cents ($562.50), and for the expenses of his office including office rent and clerical help, two hundred fifty dollars ($250), or so much thereof as may be necessary.

FOREST, FISH AND GAME COMMISSION.

For the salaries:

of the commissioner, five thousand dollars ($5,000);

deputy commissioner, two thousand five hundred dollars ($2,500); and for the actual and necessary traveling expenses of the commissioner and deputy commissioner, in the performance of their official duty, three thousand dollars ($3,000), or so much thereof as may be necessary;

of the employees according to grade:

tenth grade, two employees, four thousand six hundred dollars ($4,600):

* So in original.

eighth grade, one employee, one thousand seven hundred dollars ($1,700);

fifth grade, one employeee, eight hundred dollars ($800), or so much thereof as may be necessary.

For furniture, books, blanks, printing, stationery, messages, postage and transportation of letters, official documents and other matter sent by express or freight including boxes or covering for same and other necessary and incidental office expenses, six thousand dollars ($6,000), or so much thereof as may be necessary.

For printing twenty-five thousand copies of the forest, fish and game law for nineteen hundred eight, pursuant to chapter two hundred eighty-two, laws of nineteen hundred seven, three thousand six hundred dollars ($3,600), or so much thereof as may be necessary.

Protection of Fish and Game.

For the salaries:

of the employees according to grade:

ninth grade, one employee, two thousand dollars ($2,000);

eighth grade, one employee, one thousand six hundred dollars ($1,600);

seventh grade, one employee, one thousand four hundred dollars ($1,400);

sixth grade, four employees, four thousand four hundred dollars ($4,400);

third grade, sixty-eight protectors, thirty-one thousand dollars ($31,000), or so much thereof as may be necessary, and for the actual and necessary expenses of the chief protector, assistant chief protectors and protectors in the performance of official duty, twenty-five thousand dollars ($25,000), or so much thereof as may be necessary.

Propagation and Distribution of Fish.

For the expense and maintenance of fish hatcheries, and hatching stations, and for the propagation and distribution of food and game fish and fry, as follows:

for the Adirondack hatchery, nine thousand dollars ($9,000);

Bath hatchery, seven thousand five hundred dollars ($7,500);

Caledonia hatchery, thirteen thousand dollars ($13,000);

Cold Spring harbor hatchery, ten thousand dollars ($10,000);
Delaware hatchery, five thousand dollars ($5,000);
Fulton chain hatchery, three thousand dollars ($3,000);
Linlithgo hatchery, three thousand dollars ($3,000);
Oneida hatchery, five thousand dollars ($5,000);
Chautauqua hatchery, one thousand five hundred dollars ($1,500);
Hudson river hatchery, one thousand dollars ($1,000), or so much thereof as may be necessary.

For collecting and purchasing eggs, two thousand dollars ($2,000), or so much thereof as may be necessary.

For miscellaneous expenses, one thousand dollars ($1,000), or so much thereof as may be necessary.

For the salary of the fish culturist, three thousand dollars ($3,000), and for his actual and necessary traveling expenses in the performance of his official duty, nine hundred dollars ($900), or so much thereof as may be necessary.

SHELLFISH DEPARTMENT.

For the salaries:

of the superintendent, two thousand five hundred dollars ($2,500), and for his actual and necessary traveling expenses in the performance of his official duty, five hundred dollars ($500), and for rent and necessary and incidental office expenses, one thousand seven hundred dollars ($1,700), or so much thereof as may be necessary;

of the employees according to grade:

seventh grade, one employee, one thousand five hundred dollars ($1,500);

sixth grade, three employees, three thousand two hundred dollars ($3,200); * * * and for the actual and necessary expenses of employees in the performance of their official duty, two thousand dollars ($2,000), or so much thereof as may be necessary.

FORESTRY DEPARTMENT.

For the salaries:

of the superintendent of forests, three thousand dollars ($3,000); and for his actual and necessary traveling

expenses, in the performance of his official duty, nine hundred dollars ($900), or so much thereof as may be necessary;

of the employees according to grade:

eighth grade, three employees, five thousand two hundred dollars ($5,200);

seventh grade, three employees, three thousand nine hundred dollars ($3,900);

sixth grade, one employee, one thousand dollars ($1,000);

fifth grade, five employees, four thousand five hundred dollars ($4,500), or so much thereof as may be necessary; and for the actual and necessary expenses of employees in the performance of their official duty, five thousand dollars ($5,000), or so much thereof as may be necessary.

For the purpose of reforesting burned or denuded lands in the forest preserves and for preparing and distributing instructive pamphlets on forestry subjects, pursuant to section two hundred twenty of the forest, fish and game law, ten thousand dollars ($10,000), or so much thereof as may be necessary.

LEGAL DEPARTMENT.

For the salaries:

of one chief attorney, four thousand five hundred dollars ($4,500);

of employees according to grade:

seventh grade, two employees, two thousand seven hundred dollars ($2,700), or so much thereof as may be necessary.

For furniture, law books, stationery and printing, two hundred fifty dollars ($250), or so much thereof as may be necessary.

HEALTH DEPARTMENT.

For the salaries:

of the commissioner of health, four thousand five hundred dollars ($4,500); and for his actual and necessary traveling expenses in the performance of his official duty, one thousand five hundred dollars ($1,500), or so much thereof as may be necessary;

of the secretary, three thousand dollars ($3,000).

of the employees according to grade:
tenth grade, one employee, two thousand four hundred dollars ($2,400);
seventh grade, one employee, one thousand five hundred dollars ($1,500);
sixth grade, one employee, one thousand eighty dollars ($1,080);
second grade, one employee, four hundred eighty dollars ($480).

DIVISION OF SANITARY ENGINEERING.

For the salaries:
of the consulting engineers, four thousand five hundred dollars ($4,500);
assistant consulting engineer, two thousand four hundred dollars ($2,400);
two assistant sanitary engineers, three thousand dollars ($3,000), or so much thereof as may be necessary.
of the employees according to grade:
sixth grade, one employee, one thousand eighty dollars ($1,080);
for the purchase of instruments, maps, and for necessary and incidental office expenses, one thousand dollars ($1,000), or so much thereof as may be necessary.

DIVISION OF VITAL STATISTICS.

of the employees according to grade:
seventh grade, three employees, four thousand five hundred dollars ($4,500);
sixth grade, one employee, one thousand two hundred dollars ($1,200);
fifth grade, two employees, one thousand eight hundred dollars ($1,800);
fourth grade, two employees, one thousand four hundred forty dollars ($1,440);
third grade, two employees, one thousand two hundred dollars ($1,200), or so much thereof as may be necessary.

DIVISION OF COMMUNICABLE DISEASES.

of the medical expert on contagious diseases, one thousand five hundred dollars ($1,500);

of the employees according to grade:
fifth grade, two employees, one thousand eight hundred dollars ($1,800).

ANTITOXIN LABORATORY.

For the actual and necessary expenditures for the manufacture and standardization of tetanus, streptococcus and diphtheria antitoxin, for the proper distribution of the same in antiseptic tubes, and for further investigations of serum therapy in tuberculosis, typhoid fever and kindred diseases, eighteen thousand dollars ($18,000), or so much thereof as may be necessary.

HYGIENIC LABORATORY.

For the actual and necessary expenses of equipment and maintenance of the state hygienic laboratory and for the services of the Bender laboratory, ten thousand dollars ($10,000), or so much thereof as may be necessary;

for the actual and necessary traveling expenses of subordinates of the department of health in the performance of their official duty pursuant to the written direction of the commissioner, five thousand dollars ($5,000), or so much thereof as may be necessary;

for services and expenses of experts and stenographers in examinations and investigations, and for the expense of the annual conference of health officers, seven thousand five hundred dollars ($7,500), or so much thereof as may be necessary;

for furniture, books, blanks, binding, printing, messages and other necessary and incidental office expenses, seven thousand five hundred dollars ($7,500), or so much thereof as may be necessary;

for postage, and transportation of letters, official documents, and other matter sent by express or freight, including boxes or covering for same, four thousand dollars ($4,000), or so much thereof as may be necessary.

STATE HISTORIAN.

For the salaries:
of the state historian, four thousand five hundred dollars ($4,500);
of the employees according to grade:
seventh grade, one employee, one thousand five hundred dollars ($1,500);

sixth grade, one employee, one thousand two hundred dollars ($1,200);

second grade, one employee, three hundred eighty-four dollars ($384).

For extra clerical services, furniture, books, blanks, printing, stationery, maps, messages and other necessary and incidental office expenses, seven hundred fifty dollars ($750), or so much thereof as may be necessary.

INSURANCE DEPARTMENT.

For the salaries:

of the superintendent of insurance, seven thousand dollars ($7,000), and for his actual and necessary traveling expenses in the performance of his official duty, one thousand two hundred fifty dollars ($1,250), or so much thereof as may be necessary;

of the first deputy superintendent of insurance, five thousand dollars ($5,000), and for his actual and necessary traveling expenses in the performance of his official duty, one thousand dollars (re. $1,000), or so much thereof as may be necessary, which is hereby reappropriated from a portion of the unexpended balance of the appropriation for the same purpose made by chapter six hundred eighty-three, laws of nineteen hundred six.

second deputy superintendent of insurance, four thousand five hundred dollars ($4,500);

counsel, five thousand dollars ($5,000);

actuary, four thousand five hundred dollars ($4,500);

first assistant actuary, three thousand two hundred dollars ($3,200);

registrar, two thousand five hundred dollars ($2,500);

chief clerk and acting third deputy, three thousand six hundred dollars ($3,600);

cashier and tax clerk, three thousand five hundred dollars ($3,500);

of the employees according to grade:

tenth grade, two employees, four thousand eight hundred dollars ($4,800);

ninth grade, two employees, four thousand dollars ($4,000);

eighth grade, three employees, five thousand four hundred dollars ($5,400);
seventh grade, twenty-five employees, thirty-seven thousand five hundred dollars ($37,500);
sixth grade, twelve employees, thirteen thousand five hundred dollars ($13,500);
fifth grade, one employee, nine hundred dollars ($900), or so much thereof as may be necessary.

For rent of branch office New York city, three thousand dollars ($3,000), or so much thereof as may be necessary.

For printing and binding insurance reports, four thousand dollars ($4,000), or so much thereof as may be necessary.

For furniture, books, blanks, printing, stationery, messages, postage and transportation of letters, official documents and other matter sent by express or freight, including boxes or covering for same and necessary and incidental office expenses including New York office, fourteen thousand dollars ($14,000), or so much thereof as may be necessary.

For the actual and necessary traveling expenses of the department employees in the performance of their official duty, three thousand four hundred and ninety-one dollars (re. $3,491), which is hereby reappropriated from a portion of the unexpended balance of the appropriation for the same purpose made by chapter six hundred and eighty-three, laws of nineteen hundred six.

For expenses of computation, compilation and publication of new valuation tables for valuations and other incidental expenses connected therewith to carry into effect the provisions of section eighty-four of the insurance law, one thousand dollars ($1,000), and the further sum of two thousand nine hundred dollars (re. $2,900), which is hereby reappropriated from a portion of the unexpended balance of the appropriation made for the same purpose by chapter six hundred and eighty-three, laws of nineteen hundred and six.

For the salary of the auditor and assistant actuary New York city, five thousand dollars ($5,000).

For expert appraiser, New York city office, four thousand dollars ($4,000), or so much thereof as may be necessary.

The following appropriations to be collected from and refunded to the treasury by the corporations under examination when disbursements therefrom are in consequence of services at or in connection with such examination:

For the salaries:

of the examiner of life insurance companies, not to exceed five thousand dollars ($5,000);

examiner of casualty and miscellaneous insurance companies not to exceed four thousand five hundred dollars ($4,500);

examiner of fire and marine insurance companies not to exceed four thousand five hundred dollars ($4,500);

three assistant examiners, nine thousand dollars ($9,000);

twenty-eight assistant examiners, eleven thousand dollars ($11,000), and the further sum of twelve thousand dollars (re. $12,000), or so much thereof as may be necessary, which is hereby reappropriated from a portion of the unexpended balance of the appropriation made for the same purpose by chapter six hundred and eighty-three, laws of nineteen hundred and six.

For services and expenses of department appraisers in the state, for services and expenses of appraisers and examiners designated in other states, for services and expenses of counsel and for expenses of examiners in connection with examination of insurance companies and for extra temporary services when required, eighteen thousand dollars ($18,000), and the further sum of eight thousand dollars (re. $8,000), or so much thereof as may be necessary, which is hereby reappropriated from a portion of the unexpended balance of the appropriation made for the same purpose by chapter six hundred and eighty-three, laws of nineteen hundred and six.

DEPARTMENT OF LABOR.

For the salaries:

of the commissioner, five thousand dollars ($5,000);

first deputy commissioner, three thousand dollars ($3,000);

second deputy commissioner, three thousand dollars ($3,000);

assistant first deputy commissioner or assistant factory inspector, two thousand four hundred dollars ($2,400);

of the second assistant first deputy commissioner or assistant factory inspector, two thousand dollars ($2,000);
counsel or assistant second deputy commissioner, two thousand four hundred dollars ($2,400);
mediator of industrial disputes, two thousand five hundred dollars ($2,500);
chief statistician, two thousand seven hundred dollars ($2,700);
of the employees according to grade:
tenth grade, two employees, four thousand eight hundred dollars ($4,800);
ninth grade, one employee, two thousand one hundred dollars ($2,100);
eighth grade, three employees, five thousand three hundred dollars ($5,300);
seventh grade, fifteen employees, twenty-one thousand seven hundred eighty dollars ($21,780), or so much thereof as may be necessary;
sixth grade, fifty-nine employees, sixty-nine thousand dollars ($69,000), or so much thereof as may be necessary;
fifth grade, three employees, two thousand seven hundred dollars ($2,700), or so much thereof as may be necessary;
fourth grade, four employees, two thousand eight hundred eighty dollars ($2,880), or so much thereof as may be necessary;
first grade, one employee, three hundred sixty dollars ($360).

For the actual and necessary traveling expenses of the commissioner, in the performance of his official duty, one thousand two hundred dollars ($1,200), or so much thereof as may be necessary.

For the actual and necessary traveling expenses of officials and employees of the department in the performance of their official duty under the direction of the commissioner, thirty-one thousand dollars ($31,000), or so much thereof as may be necessary.

For printing, including the expense of publishing bulletins, six thousand five hundred dollars ($6,500), or so much thereof as may be necessary.

For furniture, books, blanks, stationery, messages, postage and transportation of letters, official documents and other matter sent by express or freight, including boxes or covering for same and other necessary and incidental office expenses, ten thousand dollars ($10,000), or so much thereof as may be necessary.

For purchase of reports and materials for the bulletins and annual reports of the department, one thousand dollars ($1,000), or so much thereof as may be necessary.

LAND OFFICE.

For valuations, assessments and other actual and necessary expenses incurred in administering the laws relating to public lands, six thousand dollars ($6,000), or so much thereof as may be necessary.

STATE COMMISSION IN LUNACY.

For the salaries:

of the medical commissioner, seven thousand five hundred dollars ($7,500);

legal commissioner, five thousand dollars ($5,000);

lay commissioner, five thousand dollars ($5,000);

medical inspector, four thousand five hundred dollars ($4,500);

secretary, five thousand dollars ($5,000);

auditor of state hospital estimates, four thousand dollars ($4,000);

of the employees according to grade:

ninth grade, one employee, two thousand dollars ($2,000);

eighth grade, one employee, one thousand seven hundred dollars ($1,700);

seventh grade, three employees, four thousand five hundred dollars ($4,500);

sixth grade, two employees, one thousand two hundred dollars each ($2,400);

fourth grade, one employee, seven hundred dollars ($700);

second grade, one employee, four hundred twenty dollars ($420), or so much thereof as may be necessary.

For temporary clerical and expert services, one thousand five hundred dollars ($1,500), or so much thereof as may be necessary.

For the traveling and incidental expenses of the three commissioners, one thousand two hundred dollars each ($3,600), pursuant to section three of the insanity law.

For engineering services, as required, one thousand five hundred dollars ($1,500), or so much thereof as may be necessary.

For the actual and necessary traveling expenses of the medical inspector, in the performance of his official duty, one thousand dollars ($1,000), or so much thereof as may be necessary.

For the deportation of alien and non-resident lunatics to other countries and states, one thousand dollars ($1,000); and for the transfer of patients from one hospital to another, seven thousand six hundred dollars ($7,600), or so much thereof as may be necessary.

For the salaries of the members of the board of alienists appointed under chapter three hundred twenty-six, laws of nineteen hundred four, fifteen thousand dollars ($15,000); and for the actual and necessary expenses of the members of said board in the performance of their official duties, one thousand fifty dollars ($1,050); and for the services of interpreters, one thousand dollars ($1,000), or so much thereof as may be necessary.

For compensation and actual and necessary traveling expenses of special agents, in the performance of their official duty, eight thousand dollars ($8,000), or so much thereof as may be necessary.

For furniture, books, blanks, printing, stationery, messages, postage and transportation of letters, official documents and other matter sent by express or freight, including boxes or covering for same, and other necessary and incidental office expenses, five thousand five hundred dollars ($5,500), or so much thereof as may be necessary.

For the maintenance of a pathological institute under the direction of the state commission in lunacy, pursuant to the insanity law and under the further provisions relating thereto contained in chapter five hundred ninety-eight, laws of nineteen hundred three, thirty thousand dollars ($30,000), or so much thereof as may be necessary.

UTICA STATE HOSPITAL.

For the maintenance of the Utica State Hospital, two hundred forty-one thousand two hundred thirty-five dollars ($241,235), or so much thereof as may be necessary.

WILLARD STATE HOSPITAL.

For the maintenance of the Willard State Hospital, three hundred eighty-five thousand one hundred eighty-three dollars ($385,183), or so much thereof as may be necessary.

HUDSON RIVER STATE HOSPITAL.

For the maintenance of the Hudson River State Hospital, five hundred nineteen thousand five hundred eighty-three dollars ($519,583), or so much thereof as may be necessary.

MIDDLETOWN STATE HOMEOPATHIC HOSPITAL.

For the maintenance of the Middletown State Homeopathic Hospital, three hundred twenty thousand five hundred twenty-two dollars ($320,522), or so much thereof as may be necessary.

BUFFALO STATE HOSPITAL.

For the maintenance of the Buffalo State Hospital, three hundred thirty-two thousand nine hundred eighty-seven dollars ($332,987), or so much thereof as may be necessary.

BINGHAMTON STATE HOSPITAL.

For the maintenance of the Binghamton State Hospital, three hundred ninety-five thousand eight hundred forty-five dollars ($395,845), or so much thereof as may be necessary.

SAINT LAWRENCE STATE HOSPITAL.

For the maintenance of the Saint Lawrence State Hospital three hundred twenty-five thousand nine hundred fifty-eight dollars ($325,958), or so much thereof as may be necessary.

ROCHESTER STATE HOSPITAL.

For the maintenance of the Rochester State Hospital two hundred fifty thousand five hundred thirteen dollars ($250,513), or so much thereof as may be necessary.

GOWANDA STATE HOMEOPATHIC HOSPITAL.

For the maintenance of the Gowanda State Homeopathic Hospital, one hundred eighty-eight thousand six hundred fifty-eight dollars ($188,658), or so much thereof as may be necessary.

KINGS PARK STATE HOSPITAL.

For the maintenance of the Kings Park State Hospital four hundred eighty-nine thousand two hundred eighteen dollars ($489,218), or so much thereof as may be necessary.

LONG ISLAND STATE HOSPITAL.

For the maintenance of the Long Island State Hospital, one hundred forty-seven thousand six hundred nine dollars ($147,609), or so much thereof as may be necessary.

MANHATTAN STATE HOSPITAL.

For the maintenance of the Manhattan State Hospital six hundred sixty-seven thousand two hundred eighty-six dollars ($667,286), or so much thereof as may be necessary.

CENTRAL ISLIP STATE HOSPITAL.

For the maintenance of the Central Islip State Hospital, five hundred eighty-three thousand four hundred forty-nine dollars ($583,449), or so much thereof as may be necessary.

NATIONAL GUARD.

For the salaries:

of the adjutant-general, five thousand five hundred dollars ($5,500).

for three assistant adjutants-general, two of the grade of colonel, one of the grade of lieutenant-colonel, and a military storekeeper, grade of captain, eight thousand five hundred dollars ($8,500);

of the employees according to grade:

ninth grade, one employee, two thousand one hundred dollars ($2,100);

eighth grade, four employees, six thousand eight hundred dollars ($6,800);

seventh grade, seven employees, eight thousand six hundred dol- ($8,600);

sixth grade, four employees, three thousand eight hundred sixty dollars ($3,860);

fifth grade, four employees, three thousand two hundred dollars ($3,200);

fourth grade, eight employees, five thousand seven hundred sixty dollars ($5,760);

of the officers on the staff of the major-general commanding the national guard:

assistant adjutant-general, grade of colonel, two thousand five hundred dollars ($2,500);

assistant adjutant-general, grade of lieutenant-colonel, one thousand five hundred dollars ($1,500);

inspector, grade of colonel, two thousand five hundred dollars ($2,500);

inspector, grade of lieutenant-colonel, five hundred dollars ($500);

inspector small arms practice, grade of lieutenant-colonel, two thousand five hundred dollars ($2,500);

inspector small arms practice, grade of major, two thousand dollars ($2,000);

quartermaster, grade of lieutenant-colonel, five hundred dollars ($500);

of the commissary of subsistence, grade of lieutenant-colonel, five hundred dollars ($500);

of the employees according to grade:

seventh grade, two employees, three thousand dollars ($3,000);

fifth grade, one employee, nine hundred dollars ($900), or so much thereof as may be necessary.

For allowances to headquarters of brigades, regiments, battalions and squadrons, thirty-two thousand nine hundred dollars ($32,900), or so much thereof as may be necessary.

For allowances to officers to assist in uniforming and equipping themselves and for organizations for the purpose of defraying necessary military expenses, one hundred seventy-two thousand two hundred fifty dollars ($172,250), or so much thereof as may be necessary.

For payment of pensions to the members of the national guard and naval militia and their care when injured or disabled in service and for the expense of examination of claims for pensions, ten thousand dollars ($10,000), or so much thereof as may be necessary.

For postage and transportation of letters, official documents or other matter sent by express or freight, including boxes or covering for same, for the adjutant-general, one thousand dollars

($1,000); and for the headquarters division, national guard, five hundred dollars ($500), or so much thereof as may be necessary.

For the actual and necessary expenses of the national guard and the office of the adjutant-general, two hundred thousand dollars ($200,000), or so much thereof as may be necessary.

NAVAL MILITIA.

For allowance to assist the headquarters of the naval militia and battalions, two thousand four hundred dollars ($2,400), or so much thereof as may be necessary.

For allowance to officers to assist in uniforming and equipping themselves and organizations for the purpose of defraying necessary military expenses, six thousand six hundred dollars ($6,600), or so much thereof as may be necessary.

For other actual and necessary expenses of the naval militia, eighteen thousand five hundred dollars ($18,500), or so much thereof as may be necessary.

MILITARY RECORD FUND.

For the adjutant-general, for the expenses of the bureau of military records, payable from the revenue of the military record fund, two thousand dollars ($2,000), or so much thereof as may be necessary.

NIAGARA RESERVATION.

For the salaries:

of the superintendent, two thousand four hundred dollars ($2,400);

two operators of the inclined railway, nine hundred dollars each ($1,800);

watchmen, janitors, scrub-woman and janitors' supplies, two thousand five hundred dollars ($2,500), or so much thereof as may be necessary.

of the police, ticket-men and caretakers, five thousand two hundred dollars ($5,200), or so much thereof as may be necessary.

For the commissioners' actual and necessary expenses in the performance of their official duty, superintendent's office expenses and actual and necessary traveling expenses in the performance of his official duty and for postage, messages and express charges,

one thousand six hundred dollars ($1,600), or so much thereof as may be necessary.

For salaries of foremen, teamsters, laborers and other employees as required, and the purchase of materials, tools, lights, fuel and other necessary and incidental expenses, fourteen thousand dollars ($14,000), or so much thereof as may be necessary.

STATE COMMISSION OF PRISONS.

For compensation of the commissioners, three thousand dollars ($3,000), or so much thereof as may be necessary.

For the salaries:

of the secretary, three thousand dollars ($3,000);

of the employees according to grade:

seventh grade, one employee, one thousand five hundred dollars ($1,500);

sixth grade, two employees, two thousand two hundred dollars ($2,200).

For the actual and necessary traveling expenses of the commissioners and secretary in the performance of their official duty, two thousand, five hundred dollars ($2,500); and for furniture, books, blanks, printing, stationery, messages, postage and transportation of letters, official documents and other matter sent by express or freight, including boxes or covering for same, and other necessary and incidental office expenses, two thousand dollars ($2,000), or so much thereof as may be necessary.

For the actual and necessary traveling expenses of the inspector, five hundred dollars ($500), or so much thereof as may be necessary.

PRISON DEPARTMENT.

For the salaries:

of the superintendent of state prisons, six thousand dollars ($6,000);

superintendent's clerk, four thousand dollars ($4,000);

of the employees according to grade:

seventh grade, three employees, three thousand nine hundred dollars ($3,900);

sixth grade, three employees, three thousand dollars ($3,000).

For the actual and necessary traveling expenses of the superintendent and his clerks, in the performance of their official duty,

two thousand dollars ($2,000), or so much thereof as may be necessary.

For furniture, books, blanks, printing, stationery, messages, postage and transportation of letters, official documents and other matter sent by express or freight, including boxes or covering for same, and other necessary and incidental office expenses, two thousand dollars ($2,000), or so much thereof as may be necessary.

For the support and maintenance of the several state prisons pursuant to chapter three hundred eighty-two, laws of eighteen hundred eighty-nine, and for the ordinary repairs thereof and supplying water therefor, the following sums, or so much thereof as may be necessary.

For Sing Sing prison, one hundred seventy-five thousand dollars ($175,000), or so much thereof as may be necessary.

For Auburn prison, one hundred sixty-five thousand dollars ($165,000), or so much thereof as may be necessary.

For Clinton prison, one hundred sixty-five thousand dollars ($165,000), or so much thereof as may be necessary.

For the state prison for women at Auburn, pursuant to chapter three hundred six, laws of eighteen hundred ninety-three, and for the transportation of women prisoners, twenty-one thousand five hundred dollars ($21,500), or so much thereof as may be necessary.

For the actual and necessary traveling expenses of the parole officers in the performance of their official duty, and for rewards for delinquent paroled prisoners, two thousand five hundred dollars ($2,500), or so much thereof as may be necessary.

DANNEMORA HOSPITAL FOR INSANE CONVICTS.

For the support and maintenance of the Dannemora hospital for insane convicts, eighty thousand dollars ($80,000), or so much thereof as may be necessary, but the salary of no officer in this institution shall exceed the salary fixed by the schedule of the lunacy commission for like position.

MATTEAWAN STATE HOSPITAL FOR INSANE CRIMINALS.

For the support and maintenance of Matteawan state hospital for insane criminals, one hundred thirty-five thousand dollars ($135,000), or so much thereof as may be necessary, but the salary of no officer in this institution shall exceed the salary fixed by the schedule of the lunacy commission for like position.

COMPENSATION OF SHERIFFS.

For compensation of sheriffs for the transportation of convicts to prisons, asylums for insane criminals, penitentiaries, houses of refuge and reformatories, twelve thousand dollars ($12,000), or so much thereof as may be necessary.

MAINTENANCE OF CONVICTS.

For the maintenance of convicts sentenced to penitentiaries, in pursuance to chapter one hundred fifty-eight, laws of eighteen hundred fifty-six, chapter five hundred eighty-four, laws of eighteen hundred sixty-five, chapter six hundred sixty-seven, laws of eighteen hundred sixty-six, chapter five hundred seventy-four, laws of eighteen hundred sixty-nine, chapter two hundred forty-seven, laws of eighteen hundred seventy-four, chapter five hundred seventy-one, laws of eighteen hundred seventy-five, chapter four hundred ninety, laws of eighteen hundred eighty-five, chapter one hundred fifteen, laws of eighteen hundred ninety-one and chapter five hundred eighty-seven, laws of eighteen hundred ninety-two, sixty thousand dollars ($60,000), or so much thereof as may be necessary.

BOARD OF PAROLE FOR STATE PRISONS.

For compensation of the two members other than the superintendent of prisons at the rate of eighteen hundred dollars per annum each, three thousand six hundred dollars ($3,600).

PAYABLE FROM THE CAPITAL FUND.

For the salaries:

of one sales agent, four thousand dollars ($4,000);

one clerk, manufacturing department, three thousand six hundred dollars ($3,600);

two superintendents of industries, seven thousand two hundred dollars ($7,200), or so much thereof as may be necessary;

one superintendent of industries, two thousand dollars ($2,000);

one assistant superintendent of industries, one thousand eight hundred dollars ($1,800);

one master mechanic, three thousand dollars ($3,000);

one financial agent, New York city, two thousand four hundred dollars ($2,400);

one financial agent, Sing Sing, one thousand eight hundred dollars ($1,800);

two foremen, four thousand eight hundred dollars ($4,800), or so much thereof as may be necessary;

of the employees according to grade:

ninth grade, three employees, six thousand one hundred dollars ($6,100);

eighth grade, three employees, five thousand four hundred dollars ($5,400);

seventh grade, seven employees, nine thousand nine hundred dollars ($9,900);

sixth grade, nineteen employees, twenty-one thousand four hundred dollars ($21,400);

fifth grade, forty-two employees, thirty-five thousand seven hundred sixty dollars ($35,760);

third grade, two employees, one thousand two hundred dollars ($1,200);

first grade, four employees, one thousand two hundred dollars ($1,200), or so much thereof as may be necessary.

No other salaries or compensation for services shall be paid from the capital fund except as above provided.

PRINTING.

For legislative printing of the state, two hundred fifty thousand dollars ($250,000), or so much thereof as may be necessary, * * * and the comptroller is authorized to pay from said amount for the services of an expert printer to examine all the accounts for printing, and who shall also act as chief clerk of the printing board, a sum not to exceed two thousand seven hundred dollars ($2,700) per annum.

SESSION LAWS AND OFFICIAL CANVASS.

For the publication of the session laws and the official canvass and official notices provided by law, which are subjects of contract, thirty thousand dollars ($30,000), or so much thereof as may be necessary.

PUBLICATION OF GENERAL LAWS.

For the payment of newspapers in the various counties in this state for the publication of the general laws of the state pursuant to chapter seven hundred fifteen, laws of eighteen hundred ninety-two, one hundred thousand dollars ($100,000), or so much thereof as may be necessary.

STATE PROBATION COMMISSION.

For the salaries:

of the secretary, three thousand dollars ($3,000);

of the employees according to grade:

sixth grade, one employee, one thousand two hundred dollars ($1,200);

fourth grade, one employee, seven hundred twenty dollars ($720);

for temporary help, one hundred dollars ($100), or so much thereof as may be necessary.

For traveling expenses of the commissioners, secretary and other employees, while engaged in the discharge of their official duties, one thousand five hundred dollars ($1,500), or so much thereof as may be necessary.

For furniture, books, blanks, stationery, printing, messages, postage and transportation of letters, official documents and other matter sent by express or freight, including boxes or covering for the same, and other necessary and incidental office expenses, two thousand dollars ($2,000), or so much thereof as may be necessary.

DEPARTMENT OF PUBLIC BUILDINGS.

For the salaries:

of the superintendent, five thousand dollars ($5,000);

deputy superintendent, three thousand five hundred dollars ($3,500);

chief engineer, two thousand four hundred dollars ($2,400);

chief orderly, one thousand five hundred dollars ($1,500);

chief of the state hall division (janitor), one thousand two hundred dollars ($1,200);

chief of the agricultural and geological hall division (janitor), one thousand two hundred dollars ($1,200);
chief of the machinery division (machinist and locksmith), one thousand two hundred dollars ($1,200);
chief of the stone and tile division (stone and tile setter), one thousand two hundred dollars ($1,200);
chief of the carpentry division (chief carpenter), one thousand dollars ($1,000);
chief of the upholstery division (upholsterer), nine hundred dollars ($900);
chief of the carpet and shade division (carpet and shade-maker), nine hundred dollars ($900);
chief of the painting division (painter), nine hundred dollars ($900);

of the clerical force, as follows:

ninth grade, two employees, four thousand dollars ($4,000);
seventh grade, one employee, one thousand five hundred dollars ($1,500);
sixth grade, three employees, three thousand four hundred dollars ($3,400), or so much thereof as may be necessary.

The sum of sixteen thousand five hundred dollars (re. $16,500), being a portion of the unexpended balance of an appropriation made by chapter six hundred eighty-six of the laws of nineteen hundred six, for removing about thirty-two feet of masonry from the top of the main capitol tower; and the sum of eighteen thousand five hundred dollars (re. $18,500), being a portion of the unexpended balance of an appropriation made by said chapter for removing the present columns and piers on the first floor of the assembly staircase and replacing the same; and the sum of thirty-three thousand dollars (re. $33,000), being a portion of the unexpended balance of an appropriation made by chapter five hundred seventy-eight of the laws of nineteen hundred seven, for installing a proper system of ventilation in the assembly chamber, speaker's room, clerk's room and corridors connected therewith, are hereby reappropriated for the services of orderlies, watchmen, engineers, firemen, carpenters, machinists, electricians, mechanics, cleaners, laborers, porters and other necessary employees in the care and maintenance of the public buildings; and in addition

thereto the sum of thirty-nine thousand dollars ($39,000), or so much thereof as may be necessary, is hereby appropriated for the same purpose.

For furniture, repairs, coal, fuel, water, machinery, fixtures, appliances, supplies and other necessary and incidental expenses, forty-five thousand dollars ($45,000), or so much thereof as may be necessary.

DEPARTMENT OF PUBLIC WORKS.

PAYABLE FROM THE CANAL FUND.

For the salaries:

of the superintendent of public works, six thousand dollars ($6,000); deputy superintendent, five thousand dollars ($5,000); three assistant superintendents, nine thousand dollars ($9,000);

financial clerk, three thousand six hundred dollars ($3,600); assistant financial clerk, two thousand seven hundred dollars ($2,700);

of the employees according to grade:

eighth grade, two employees, three thousand four hundred dollars ($3,400);

seventh grade, three employees, four thousand three hundred dollars ($4,300);

sixth grade, five employees, five thousand six hundred dollars ($5,600);

fifth grade, four employees, three thousand six hundred dollars ($3,600);

first grade, one employee (janitress), one hundred forty-four dollars ($144), or so much thereof as may be necessary.

For the actual and necessary traveling expenses of the assistant superintendents of public works, in the performance of their official duty, one thousand five hundred dollars ($1,500), or so much thereof as may be necessary; and for additional clerk hire, and necessary and incidental office expenses of the superintendent and assistant superintendents of public works, collectors and inspectors, nine thousand five hundred dollars ($9,500), or so much thereof as may be necessary.

For the actual and necessary traveling expenses of the superintendent in the performance of his official duty, two thousand dol-

lars ($2,000), or so much thereof as may be necessary, and of the deputy superintendent of public works, one thousand dollars ($1,000), or so much thereof as may be necessary.

For the salaries:

of seventeen section superintendents, twenty-six thousand dollars ($26,000);

tenth grade, one employee, two thousand two hundred dollars ($2,200);

ninth grade, one employee, two thousand dollars ($2,000);

of the collectors and compilers of statistics relating to the trade and tonnage of the canals during the season of navigation, eight thousand twenty-five dollars ($8,025), comprising two collectors at one hundred twenty-five dollars each per month, five collectors at one hundred dollars each per month, and four collectors at eighty dollars each per month;

collectors, clerks and inspectors and measurers of boats, seven thousand two hundred thirty-eight dollars ($7,238), comprising three clerks at eighty dollars each per month, five clerks at seventy-five dollars each per month, and five clerks at seventy dollars each per month.

For the payment of the expenses of lock-tending and the ordinary repairs of the canals of the state, seven hundred seventy-five thousand dollars ($775,000), or so much thereof as may be necessary.

For the compensation of gate tenders of the state dams upon the Beaver and Moose rivers, as provided by chapter one hundred sixty-eight, laws of eighteen hundred ninety-four, one thousand one hundred dollars ($1,100), or so much thereof as may be necessary, to be paid by the comptroller on the certificate of the commissioners appointed under said act, or a majority thereof.

PAYABLE FROM THE GENERAL FUND.

For the compensation of the tender and for the maintenance and operation of the draw-bridge over Minisceongo creek, Rockland county, five hundred dollars ($500), or so much thereof as may be necessary, on the certificate of the superintendent of public works.

For the operation, maintenance and repair of the draw-bridge known as Drake's draw-bridge, spanning Wappinger creek, in the

village of New Hamburg, county of Dutchess, as provided by chapter two hundred thirty-nine, laws of eighteen hundred ninety-two, four hundred dollars ($400), or so much thereof as may be necessary.

STEAM VESSEL INSPECTION.

For the salaries of the inspectors of steam vessels, six thousand dollars ($6,000).

For their necessary traveling expenses, and for the supplies necessary for the performance of said duties, one thousand five hundred dollars ($1,500), or so much thereof as may be necessary, pursuant to chapter five hundred ninety-two, laws of eighteen hundred ninety-seven.

PUBLIC SERVICE COMMISSION, FIRST DISTRICT.

For the salaries:

of the commissioners, thirty-six thousand dollars (re. $36,000), which amount is hereby reappropriated from the unexpended balance of appropriation for the use of the public service commission of the first district, made by chapter five hundred seventy-eight, laws nineteen hundred and seven, and the further sum of thirty nine thousand dollars ($39,000);

of the counsel to the commission, ten thousand dollars ($10,000);

secretary to the commission, six thousand dollars ($6,000).

PUBLIC SERVICE COMMISSION, SECOND DISTRICT.

For the salaries:

of the commissioners, seventy-five thousand dollars ($75,000);

counsel to the commission, ten thousand dollars ($10,000);

secretary to the commission, six thousand dollars ($6,000);

statistician, five thousand dollars ($5,000);

chief of division of light, heat and power, four thousand dollars ($4,000);

engineer of division of light, heat and power, five thousand dollars ($5,000);

chief of division of traffic, four thousand dollars ($4,000);
chief of division of tariffs, three thousand five hundred dollars ($3,500);
executive clerk, four thousand dollars ($4,000);
inspector of electric railroads, four thousand dollars ($4,000);
inspector of division of transportation, three thousand dollars ($3,000);
supervisor of equipment, three thousand dollars ($3,000);
of the locomotive boiler inspector, three thousand dollars ($3,000);
engineer of grade crossings, three thousand dollars ($3,000);
chief clerk of records, division of traffic, two thousand five hundred dollars ($2,500);
chief gas inspector, two thousand five hundred dollars ($2,500);
of the employees according to grade:
tenth grade, one employee, two thousand four hundred dollars ($2,400);
eighth grade, five employees, nine thousand dollars ($9,000);
seventh grade, ten employees, fourteen thousand five hundred twelve dollars ($14,512);
sixth grade, twenty-two employees, twenty-two thousand three hundred twenty dollars ($22,320);
fifth grade, sixteen employees, fourteen thousand four hundred dollars ($14,400);
fourth grade, three employees, two thousand one hundred sixty dollars ($2,160);
third grade, one employee, six hundred dollars ($600);
second grade, two employees, nine hundred sixty dollars ($960);
first grade, two employees, six hundred seventy-two dollars ($672).

For the actual and necessary traveling and other expenses and disbursements of the commissioners, counsel to the commission and the secretary, and their officers, clerks, inspectors, experts and other employees incurred or made by them in the discharge of their official duties, three thousand dollars ($3,000), and in addition

thereto the sum of fifteen thousand dollars (re. $15,000), which amount is hereby reappropriated from the unexpended balances of appropriations made by chapter six hundred eighty-three, laws nineteen hundred and six, for the board of railroad commissioners, the commission of gas and electricity, and inspector of gas meters.

For printing, office supplies, telephone and telegraph service, expressage, postage, stationery, reporting of hearings, laboratory supplies, books and other necessary and incidental office expenses, six thousand five hundred dollars ($6,500), and in addition thereto the sum of eighteen thousand dollars (re. $18,000), which amount is hereby reappropriated from the unexpended balances of appropriations made by chapter six hundred eighty-three, laws of nineteen hundred and six, for the board of railroad commissioners, the commission of gas and electricity, and inspector of gas meters.

For rent of offices, 14 Washington avenue, Albany, of office at Buffalo, fuel and light for same, two thousand twenty dollars (re. $2,020), which amount is hereby reappropriated from the unexpended balances of appropriations made by chapter six hundred eighty-three, laws of nineteen hundred and six, for the board of railroad commissioners and the commission of gas and electricity.

For the salaries of additional chiefs of division, assistant secretary, clerks, engineers, experts, inspectors and other employees, and for their actual and necessary traveling expenses and disbursements, sixteen thousand dollars (re. $16,000), which amount is hereby reappropriated from the unexpended balances of appropriations made by chapter six hundred eighty-three, laws of nineteen hundred and six for the board of railroad commissioners and the commission of gas and electricity, and the further sum of fourteen thousand dollars ($14,000), or so much thereof as may be necessary.

QUARANTINE COMMISSIONERS.

For the salaries:

of the commissioners of quarantine, seven thousand five hundred dollars ($7,500);

of the employees according to grade:

eighth grade, one employee, one thousand eight hundred dollars ($1,800);

seventh grade, one employee, one thousand five hundred dollars ($1,500);
sixth grade, two employees, two thousand four hundred dollars ($2,400);
fifth grade, three employees, two thousand seven hundred dollars ($2,700);
fourth grade, four employees, two thousand eight hundred eighty dollars ($2,880);
third grade, two employees, one thousand two hundred dollars ($1,200);
second grade, two employees, nine hundred sixty dollars ($960);
superintendent, two thousand five hundred dollars ($2,500);
master mechanic, one thousand two hundred eighty dollars ($1,280);
engineer on Swinburne island, one thousand one hundred fifty dollars ($1,150);
engineer on Hoffman island, one thousand fifty dollars ($1,050);
engineer on tug, one thousand eighty dollars ($1,080);
laundryman, Swinburne island, three hundred dollars ($300);
cook, Swinburne island, two hundred forty dollars ($240), or so much thereof as may be necessary.

For general repairs and expenses of maintenance, twelve thousand dollars ($12,000), or so much thereof as may be necessary.

STATE BOARD OF TAX COMMISSIONERS.

For the salaries:
of the tax commissioners, fifteen thousand dollars ($15,000);
secretary, three thousand five hundred dollars ($3,500);
of the employees according to grade:
tenth grade, one employee, two thousand four hundred dollars ($2,400);
ninth grade, one employee, two thousand dollars ($2,000);
seventh grade, three employees, four thousand four hundred dollars ($4,400);
sixth grade, four employees, four thousand dollars ($4,000);
second grade, one employee, four hundred eighty dollars ($480), or so much thereof as may be necessary.

For furniture, books, blanks, printing, stationery, messages, postage and transportation of letters, official documents and other matter sent by express or freight, including boxes or covering for same, and other incidental and necessary office expenses, seven thousand dollars ($7,000), or so much thereof as may be necessary.

For the actual and necessary traveling expenses of the commissioners in the performance of their official duty, one thousand five hundred dollars each ($4,500), or so much thereof as may be necessary.

For the salaries of six special agents, ten thousand eight hundred dollars ($10,800), or so much thereof as may be necessary, and the further sum of three thousand five hundred dollars ($3,500), or so much thereof as may be necessary, for their actual and necessary traveling expenses in the performance of their official duty.

For services and actual and necessary traveling expenses of confidential and expert appraisers of special franchises, the sum of twelve thousand dollars ($12,000), or so much thereof as may be necessary.

For the salary of a mortgage tax clerk, two thousand five hundred dollars ($2,500), and the further sum of one thousand dollars ($1,000), or so much thereof as may be necessary, for his actual and necessary traveling expenses in the performance of his official duty.

For the salaries of two special examiners under the mortgage tax law, three thousand six hundred dollars ($3,600), or so much thereof as may be necessary.

For the actual and necessary traveling expenses of said examiners incurred by them in the discharge of their official duties, two thousand four hundred dollars ($2,400), or so much thereof as may be necessary.

DEPARTMENT OF WEIGHTS AND MEASURES.

For salaries of:

superintendent, two thousand dollars ($2,000);

for the actual and necessary traveling expenses incurred in the performance of their official duties, by the superintendent and the inspector, one thousand dollars ($1,000), or so much thereof as may be necessary;

for salaries according to grade:

sixth grade, two employees, two thousand two hundred dollars ($2,200);

fourth grade, one employee, seven hundred fifty dollars ($750), or so much thereof as may be necessary.

For furniture, books, stationery, messages and other office expenses, one thousand five hundred dollars ($1,500), or so much thereof as may be necessary.

For repairing existing state weights and measures, and for the expenses of sending the same to the national bureau of standards for comparison and correction, and returning the same, including packing and transportation, one thousand dollars ($1,000), or so much thereof as may be necessary.

STATE WATER SUPPLY COMMISSION.

For the salaries:

of the state water supply commissioners, twenty-five thousand dollars ($25,000);

consulting engineer, four thousand dollars ($4,000);

secretary, two thousand five hundred dollars ($2,500);

of the employees according to grade:

fifth grade, one employee, nine hundred dollars ($900).

For the actual and necessary traveling expenses of the five commissioners in the performance of their official duty, two thousand five hundred dollars ($2,500), or so much thereof as may be necessary.

For the actual and necessary traveling expenses of the engineer and secretary, in the performance of their official duty, five hundred dollars ($500), or so much thereof as may be necessary.

For office rent, one thousand dollars ($1,000), or so much thereof as may be necessary.

For furniture, books, blanks, printing, stationery, messages, postage and transportation of letters, official documents and other matter sent by express or freight, including boxes or covering for same, janitor service and other necessary incidental office expenses, one thousand two hundred dollars ($1,200), or so much thereof as may be necessary.

FISCAL SUPERVISOR OF STATE CHARITIES.

For the salaries:

of the fiscal supervisor of state charities, six thousand dollars ($6,000);

deputy, three thousand five hundred dollars ($3,500);

chief clerk, two thousand five hundred dollars ($2,500);

inspector of buildings, heating and lighting, two thousand dollars ($2,000);

confidential inspector, one thousand two hundred dollars ($1,200);

of the employees according to grade:

eighth grade, two employees, three thousand six hundred dollars ($3,600);

seventh grade, three employees, four thousand five hundred dollars ($4,500);

fifth grade, three employees, two thousand seven hundred dollars ($2,700);

fourth grade, one employee, seven hundred twenty dollars ($720);

second grade, one employee, four hundred eighty dollars ($480), or so much thereof as may be necessary.

For the actual and necessary traveling expenses of the fiscal supervisor in the performance of his official duty, one thousand dollars ($1,000), or so much thereof as may be necessary.

For furniture, books, blanks, printing, messages, traveling expenses of inspectors, and other necessary and incidental office expenses, including the services of a competent person to examine the books, papers and accounts of any institution, as provided in article three of the state charities law, two thousand dollars ($2,000), or so much thereof as may be necessary.

For postage and transportation of letters, official documents and other matter sent by express or freight, including boxes or covering for same, two hundred fifty dollars ($250), or so much thereof as may be necessary.

PURCHASING COMMITTEE OF STATE CHARITABLE INSTITUTIONS.

For the salary:

of a secretary, who shall be a stenographer, shall attend to all the office business and correspondence of the purchasing com-

mittee of state charitable institutions, shall keep the minutes of the meetings of said committee and shall do the necessary stenographic work of said committee, one thousand two hundred dollars ($1,200).

For the necessary expenses of the purchasing committee of the state charitable institutions for advertising for proposals, making chemical analysis, printing, blanks, stationery, and postage, five hundred dollars ($500), or so much thereof as may be necessary.

PUBLIC INSTITUTIONS.

WESTERN HOUSE OF REFUGE FOR WOMEN, ALBION.

For the Western House of Refuge for Women at Albion for the maintenance of the institution and for the transportation of those committed to it, forty-five thousand dollars ($45,000), or so much thereof as may be necessary.

NEW YORK STATE SCHOOL FOR THE BLIND, BATAVIA.

For the maintenance and instruction of the inmates of the State School for the Blind at Batavia, forty-three thousand dollars ($43,000), or so much thereof as may be necessary.

NEW YORK STATE SOLDIERS' AND SAILORS' HOME, BATH.

For the New York State Soldiers' and Sailors' Home at Bath, for maintenance and for the transportation of applicants for admission, two hundred fifty thousand dollars ($250,000), or so much thereof as may be necessary.

NEW YORK STATE REFORMATORY FOR WOMEN, BEDFORD.

For the New York State Reformatory for Women at Bedford, for the maintenance of the institution and for the transportation of those committed to it, sixty thousand dollars ($60,000), or so much thereof as may be necessary.

NEW YORK STATE REFORMATORY, ELMIRA.

For the New York State Reformatory at Elmira, for maintenance and ordinary repairs and for the purchase of material and for expenses of manufacturing, two hundred forty-five thousand dollars ($245,000), or so much thereof as may be necessary.

NEW YORK STATE TRAINING SCHOOL FOR GIRLS, HUDSON.

For the New York State Training School for Girls at Hudson, for the maintenance of the institution and for the transportation of those committed to it, seventy-five thousand dollars ($75,000), or so much thereof as may be necessary.

THOMAS INDIAN SCHOOL, IROQUOIS.

For the Thomas Indian School at Iroquois, for maintenance, thirty-one thousand dollars ($31,000), or so much thereof as may be necessary.

EASTERN NEW YORK REFORMATORY, NAPANOCH.

For the Eastern New York Reformatory at Napanoch, for maintenance, sixty thousand dollars ($60,000), or so much thereof as may be necessary.

NEW YORK STATE CUSTODIAL ASYLUM, NEWARK.

For the New York State Custodial Asylum for Feeble-Minded Women at Newark, for maintenance and for other necessary expenses, ninety-three thousand dollars ($93,000), or so much thereof as may be necessary.

NEW YORK STATE WOMAN'S RELIEF CORPS HOME, OXFORD.

For the New York State Woman's Relief Corps Home at Oxford, for maintenance, thirty-five thousand dollars ($35,000), or so much thereof as may be necessary.

NEW YORK HOUSE OF REFUGE, RANDALL'S ISLAND.

For the Society for the Reformation of Juvenile Delinquents in the city of New York, for maintenance and rewards to inmates and repairs and betterments of tools and equipment and furniture, and for necessary tools to properly conduct the trade school and common schools and military system and photographing of inmates, one hundred forty thousand dollars ($140,000), or so much thereof as may be necessary.

NEW YORK STATE HOSPITAL FOR TUBERCULOSIS, RAY BROOK.

For the New York State Hospital for the Treatment of Incipient Pulmonary Tuberculosis at Ray Brook, for the maintenance of the institution, eighty thousand dollars ($80,000), or so much thereof as may be necessary.

STATE AGRICULTURAL AND INDUSTRIAL SCHOOL, INDUSTRY.

For the State Agricultural and Industrial School at Industry, for the maintenance of and rewards to inmates, and repairs and betterments of tools, equipment and furniture, and for necessary tools to conduct the trade schools and common schools and military system and photographing of inmates, one hundred fifty-five thousand dollars ($155,000), or so much thereof as may be necessary.

ROME STATE CUSTODIAL ASYLUM, ROME.

For the Rome State Custodial Asylum, for maintenance, one hundred fifty thousand dollars ($150,000), or so much thereof as may be necessary.

CRAIG COLONY FOR EPILEPTICS, SONYEA.

For the Craig Colony for Epileptics at Sonyea, for the maintenance of the institution, one hundred eighty-six thousand dollars ($186,000), or so much thereof as may be necessary.

SYRACUSE STATE INSTITUTION FOR FEEBLE-MINDED CHILDREN.

For the Syracuse State Institution for Feeble-Minded Children, for maintenance, eighty-six thousand dollars ($86,000), or so much thereof as may be necessary.

NEW YORK STATE HOSPITAL FOR THE CARE OF CRIPPLED AND DEFORMED CHILDREN, WEST HAVERSTRAW.

For the New York State Hospital for the Care of Crippled and Deformed Children at West Haverstraw, for maintenance, sixteen thousand dollars ($16,000), or so much thereof as may be necessary.

OTHER CHARITABLE AND EDUCATIONAL INSTITUTIONS.

NEW YORK INSTITUTION FOR THE BLIND.

For the support and instruction of one hundred eighty pupils at the New York Institution for the Blind, in addition to the sum of eleven thousand one hundred fifty-one dollars and eighty cents (re. $11,151.80), remaining unexpended of appropriations heretofore made therefor, which is hereby reappropriated for the current and the next fiscal years, the further sum of

forty-two thousand eight hundred forty-eight dollars and twenty cents ($42,848.20), or a proportionate amount for a shorter period of time than one year, or for a smaller number of pupils, as shall be duly verified by the affidavits of the president and secretary of the institution.

DEAF AND DUMB.

For the support and instruction of two hundred seventy-five pupils at the Institute for the Deaf and Dumb, in New York city, in addition to the sum of three thousand two hundred twenty-seven dollars and seventy-three cents (re. $3,227.73), remaining unexpended of appropriations heretofore made therefor, and which is hereby reappropriated for the current and next fiscal years, the further sum of eighty-six thousand one hundred forty-seven dollars and twenty-seven cents ($86,147.27).

For the support and instruction of one hundred twenty pupils at the Institution for the Improved Instruction of Deaf Mutes in New York city, in addition to the sum of four thousand eight hundred thirty-one dollars and forty-nine cents (re. $4,831.49), remaining unexpended of appropriations heretofore made therefor, which is hereby reappropriated for the current and the next fiscal years, the further sum of thirty-four thousand one hundred sixty-eight dollars and fifty-one cents ($34,168.51).

For the support and instruction of one hundred and ten pupils at the Le Couteulx Saint Mary's Institution for the Improved Instruction of Deaf-Mutes, at Buffalo, in addition to the sum of ten thousand two hundred twenty-three dollars and eighty-four cents (re. $10,223.84), remaining unexpended of appropriations heretofore made therefor, which is hereby reappropriated for the current and next fiscal years, the further sum of twenty-five thousand five hundred twenty-six dollars and sixteen cents ($25,526.16).

For the support and instruction of one hundred fifteen pupils at the Central New York Institution for the Improved Instruction of Deaf-Mutes, at Rome, in addition to the sum of fourteen thousand three hundred ten dollars and twenty-two cents (re. $14,310.22), remaining unexpended of appropriations heretofore made therefor, which is hereby reappropriated for the current and the next fiscal years, the further sum of twenty-three thousand sixty-four dollars and seventy-eight cents ($23,064.78).

For the support and instruction of sixty-five pupils at the Northern New York Institution for Deaf-Mutes, at Malone, in addition to the sum of four thousand six hundred eighty-six dollars and sixty-eight cents (re. $4,686.68), remaining unexpended of appropriations heretofore made therefor, which is hereby reappropriated for the current and the next fiscal years, the further sum of sixteen thousand four hundred thirty-eight dollars and thirty-two cents ($16,438.32).

For the support and instruction of two hundred forty pupils at Saint Joseph's Institution for the Improved Instruction of Deaf-Mutes at West Chester, in addition to sum of four thousand thirty-five dollars and seventy-four cents (re. $4,035.74), remaining unexpended of appropriations heretofore made therefor, which is hereby reappropriated for the current and for the next fiscal years, the further sum of seventy-three thousand nine hundred sixty-four dollars and twenty-six cents ($73,964.26).

For the support and instruction of twenty-five pupils at the Albany Home School for the Deaf, in addition to the sum of one thousand four hundred eighty-seven dollars and ninety cents (re. $1,487.90), remaining unexpended of appropriations heretofore made therefor, which is hereby reappropriated for the current and the next fiscal years, the further sum of six thousand six hundred thirty-seven dollars and ten cents ($6,637.10).

For the support and instruction of one hundred fifteen pupils at the Western New York Institution, at Rochester, for the Improved Instruction of Deaf-Mutes, in addition to the sum of two thousand four hundred forty dollars and thirty-one cents (re. $2,440.31), remaining unexpended of appropriations heretofore made therefor, which is hereby reappropriated for the current and the next fiscal years, the further sum of thirty-four thousand nine hundred thirty-four dollars and sixty-nine cents ($34,934.69).

The amount hereby appropriated for the several institutions for the support and instruction of deaf-mutes is at the rate of three hundred dollars per capita for a school year of not less than forty weeks and a proportionate amount for shorter period of time than one school year, or for a smaller number of pupils in each case, and shall be allowed in each of the last eight items, and paid by the comptroller, upon certificate verified by oath of the president and secretary, or other officer designated by law, of such institution, and upon the approval of the commissioner of education.

ALFRED UNIVERSITY.

For the maintenance of the State School of Clay Workings and Ceramics at Alfred University as provided by chapter three hundred eighty-three, laws of nineteen hundred, seven thousand five hundred dollars ($7,500), or so much thereof as may be necessary.

CORNELL UNIVERSITY.

For payment to Cornell University, being the interest at five per centum on the proceeds of the college land scrip fund pursuant to chapter seventy-eight, laws of eighteen hundred ninety-five, thirty-four thousand four hundred twenty-eight dollars and eighty cents ($34,428.80).

For the State Veterinary College at Cornell University for maintenance, equipment and necessary material to conduct the same, thirty thousand dollars ($30,000), payable to the treasurer of Cornell University on the warrant of the comptroller.

For the State College of Agriculture at Cornell University for the promotion of agricultural knowledge throughout the state as provided by chapter four hundred thirty, laws of eighteen hundred ninety-nine, and for the maintenance, equipment and necessary material to conduct the college of agriculture, one hundred fifty thousand dollars ($150,000), payable to the treasurer of Cornell University on the warrant of the comptroller, pursuant to chapter two hundred eighteen, laws nineteen hundred and six.

SAINT LAWRENCE UNIVERSITY.

For the maintenance of the New York School of Agriculture at Saint Lawrence University, as provided by chapter six hundred eighty-two of the laws of nineteen hundred and six, seventeen thousand five hundred dollars ($17,500), or so much thereof as may be necessary.

MISCELLANEOUS.

COUNTY TREASURERS.

For advances to county treasurers on account of taxes on property of non-residents, and for taxes on state, wild or forest lands which may be returned to the comptroller's office, and for adjusting accounts of state taxes with counties, fifty-five thousand dollars ($55,000), or so much thereof as may be necessary.

STATE FAIR COMMISSION.

For the payment of premiums at the state fair to be held in the year nineteen hundred nine, thirty thousand dollars ($30,000), or so much thereof as may be necessary.

REDEMPTION OF LANDS.

The sum of one thousand dollars (re. $1,000), being a portion of the unexpended balance of appropriation made by chapter six hundred eighty-three, laws of nineteen hundred six, for repayment of money to purchasers upon redemption of lands sold for taxes is hereby reappropriated for the same purpose.

REFUND OF TAXES.

The sum of one thousand dollars (re. $1,000), being a portion of the unexpended balance of appropriation made by chapter six hundred eighty-three, laws of nineteen hundred six, for repayment of money erroneously paid into the treasury for taxes is hereby reappropriated for the same purpose.

INDIAN AFFAIRS.

For the payment of the annuities to the several Indian tribes, as follows:

To the Onondagas, two thousand four hundred thirty dollars ($2,430);

Cayugas, two thousand three hundred dollars ($2,300);

Senecas, five hundred dollars ($500);

Saint Regis, two thousand one hundred thirty-one dollars and sixty-seven cents ($2,131.67).

For the relief of the Onondaga Indians, three hundred dollars ($300).

For compensation of the agent of the Onondaga Indians, two hundred dollars ($200).

For compensation of the agent of the Onondaga Indians, pursuant to chapter one hundred seventy-eight, laws of eighteen hundred forty-seven and chapter six hundred thirty-five, laws of eighteen hundred sixty-nine, sixty-five dollars ($65).

For compensation of the agent of the Onondaga Indians, residing on the Allegany and Cattaraugus reservation, one hundred fifty dollars ($150).

For compensation of the attorney of the Saint Regis Indians, one hundred fifty dollars ($150).

For compensation of the attorney of the Seneca Indians, one hundred and fifty dollars ($150).

For compensation of the attorney of the Tonawanda band of Seneca Indians, one hundred fifty dollars ($150).

VARIOUS.

For the lieutenant-governor and the speaker of the assembly, for their actual and necessary traveling expenses in the performance of their duties upon the several boards of which they are members, five hundred dollars each ($1,000), or so much thereof as may be necessary.

For supplying states on exchange with reports of the court of appeals and the supreme court, pursuant to section twenty-seven of the executive law, five hundred dollars ($500), or so much thereof as may be necessary.

For the trustees of Washington's headquarters, at Newburgh, for compensation of the superintendent, and for the care, maintenance, repairs and improvements of the grounds, one thousand dollars ($1,000), or so much thereof as may be necessary.

For the trustees of public buildings, for the salary of the keeper of the senate-house property, at Kingston, pursuant to chapter two hundred twenty-seven, laws of eighteen hundred ninety-three, six hundred dollars ($600).

For the salary of the custodian and care-taker of the state reservation at Stony Point, six hundred dollars ($600), or so much thereof as may be necessary, payable monthly.

For the expenses of the board of port wardens of the port of New York, pursuant to chapter one hundred forty-two, laws of eighteen hundred ninety-one, four thousand five hundred dollars ($4,500), or so much thereof as may be necessary.

For salary of janitor of the Saratoga monument, six hundred dollars ($600), as provided by chapter five hundred fifty-five, laws of eighteen hundred ninety-five.

For care and maintenance of Grant cottage, as provided by chapter six hundred sixty-seven, laws of eighteen hundred ninety-six, one thousand dollars ($1,000), or so much thereof as may be necessary.

§ 2. The several amounts herein appropriated shall be paid by the treasurer from the respective sums as specified, pur-

suant to the requirements of the state finance law, and it shall be the duty of the treasurer to report annually to the legislature the detail of the several expenditures. The salary or compensation of any officer or employee, when not prescribed by law, for which an appropriation is made by this act, may be fixed by the department, official or officials appointing such officer, or employing such employee, at a less, but not a greater sum than the amount herein appropriated for the salary or compensation of such officer or employee. No appropriation herein contained shall be available for the salary or compensation of any regular officer or employee whose employment or office is not herein specified unless his appointment or employment is expressly authorized, and except as otherwise herein expressly provided, the appropriations made in this act for traveling expenses of officers or employees are for actual and necessary expenses only, in the performance of official duty and to be paid upon proper proof thereof, as required by section twelve of the state finance law, and no other or further or fixed allowance for expenses shall be granted or paid, anything in any other statute to the contrary notwithstanding.

The appropriations made in this act for the salaries of employees by grades are intended to refer to such grades as established by, and in accordance with, chapter five hundred twenty-one, laws of nineteen hundred one, and such appropriations shall be available for the salaries of employees in any grade lower than the one specified in the appropriation act.

A manager, trustee or officer of any state charitable or other institution receiving moneys under this act from the state treasury, for maintenance and support, shall be entitled to actual and necessary traveling expenses only when attending meetings of the board at the office of the institution or in the performance of other official duties undertaken pursuant to a resolution of the board of managers of which he is a member and with the approval of the fiscal supervisor of state charities.

Chap. 466.

AN ACT making appropriations for certain expenses of government and supplying deficiencies in former appropriations.

Became a law, May 22, 1908, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The treasurer shall pay, on the warrant of the comptroller, from the several funds specified, to the persons, and for the purposes indicated in this act, the amounts named or so much thereof as shall be sufficient to accomplish, in full, the purposes designated by the appropriations, which several amounts are hereby appropriated out of any moneys in the treasury not otherwise appropriated. No warrants shall be issued, except in cases of salaries, until the amounts claimed shall have been audited and allowed by the comptroller, who is hereby authorized to determine the same, upon vouchers presented as required by section twelve of the state finance law. Whenever an appropriation shall have been provided otherwise the sum herein directed to be paid shall not be considered as an addition to such other appropriation unless it shall be expressly so declared in this act.

FROM THE GENERAL FUND.

EXECUTIVE DEPARTMENT.

For postage and transportation of letters, official documents, and other matter sent by express or freight, including boxes or coverings for same, and for necessary expenses, including binding, printing, stationery, supplies, traveling and other incidental expenses, and for the payment of expenses of notarial department, one thousand five hundred dollars ($1,500), or so much thereof as may be necessary.

For printing the state papers of the governor for the year nineteen hundred seven, eight hundred dollars ($800), or so much thereof as may be necessary.

For the compensation and expenses of persons employed in the examination of bills of the legislative session of nineteen hundred eight, five thousand dollars ($5,000), or so much thereof as may be necessary, to be paid on the certificate of the governor.

For compensation of persons appointed to examine and investigate the departments, boards, bureaus and commissions of the state, and for expenses necessarily incurred in the examinations or investigations of such departments, boards, bureaus and commissions, ten thousand dollars ($10,000), or so much thereof as may be necessary.

For the reasonable cost and expense of proceedings by or before the governor upon charges against or relative to the removal of any officer, including necessary assistance and the taking and reporting of the evidence, and other expenses necessary, twenty thousand dollars ($20,000), or so much thereof as may be necessary, to be paid on the certificate of the governor.

For James C. Marriott for stenographic work in the hearing upon the charges against John F. Ahearn, president of the borough of Manhattan, one thousand eight hundred forty dollars ($1,840), or so much thereof as may be necessary.

For continuing the preparation of an annotated edition of the governors' messages from the year nineteen hundred four, as provided by chapter seven hundred, laws of nineteen hundred five, to and including the year nineteen hundred six, and for indexing the entire edition and preparing it for publication, payable on the certificate of the governor, four thousand dollars ($4,000), or so much thereof as may be necessary.

The distribution of such annotated edition shall be made by the director of the state library as follows: one set to each of the following officers and persons, the governor and lieutenant-governor, the surviving ex-governors and lieutenant-governors, the members of the legislature of nineteen hundred and eight, the senators and representatives from this state in the congress of the United States, the elective state officers; one set to each judge of the court of appeals, each justice of the supreme court, each judge of the court of claims, each county judge and each separate surrogate; to the executive chamber two sets, to the state library five sets, and to the senate and assembly libraries two sets each; one set to each library of the court of appeals, each judicial district library, each appellate division and supreme court library, each other public law library, and each county law library on the request of the county judge of the county in which such library is situated; one set to the library of each incorporated

university, college or normal school, and one set to each high school library. Any sets of such annotated edition remaining after the foregoing distribution shall be reserved by the director of the state library for miscellaneous distribution or exchange, according to rules to be prescribed by him.

JUDICIARY.

COURT OF APPEALS.

For necessary expenses of the clerks of the judges of the court of appeals, the sum of eight hundred dollars ($800), or so much thereof as may be necessary, to be paid upon vouchers approved by the judge in whose service such expenses are incurred.

For the payment of expenses incurred pursuant to section two hundred three of the code of civil procedure by the justices of the supreme court assigned to serve as judges of the court of appeals, three hundred seventy-five dollars ($375), or so much thereof as may be necessary.

SUPREME COURT.

The sum of seven hundred eighty-two dollars and thirty-four cents (re. $782.34), being a portion of the unexpended balance of an appropriation made by chapter six hundred eighty-six, laws of nineteen hundred six, for the payment of the typewriter operators appointed by the justices of the appellate division of the supreme court in the second judicial department, pursuant to chapter one hundred thirty-seven, laws of nineteen hundred six, and reappropriated by chapter five hundred seventy-eight, laws of nineteen hundred seven, is hereby reappropriated for the payment of such compensation for the fiscal year ending September thirtieth, nineteen hundred nine, and the further sum of two thousand two hundred seventeen dollars and sixty-six cents ($2,217.66) is hereby appropriated for the same purpose.

For deficiency in appropriation for the salaries and expenses of the justices of the supreme court, for the fiscal year ending September thirtieth, nineteen hundred eight, forty-seven thousand four hundred sixty-four dollars and fifty cents ($47,464.50), or so much thereof as may be necessary.

For deficiency in appropriation for trial justices, who attend a term or part of the supreme court, except in the counties of New

York and Kings, outside the county in which they reside, for actual and necessary traveling and other expenses, incurred pursuant to chapter four hundred and thirty-one, laws of nineteen hundred, three thousand dollars ($3,000), or so much thereof as may be necessary.

For deficiency in appropriation for expenses of the appellate division of the supreme court, for compensation of clerks, criers and attendants, and of stenographers and clerks to the justices and for their actual and necessary expenses, seven thousand dollars ($7,000), or so much thereof as may be necessary.

For compensation for the current fiscal year of two confidential clerks appointed by the justices of the appellate division of the supreme court in the second judicial department, at the rate of four thousand five hundred dollars per year each until this act becomes a law, and thereafter at the rate of three thousand five hundred dollars per year each, to be refunded to the treasury pursuant to the provisions of chapter five hundred and sixty, laws of nineteen hundred and seven, eight thousand five hundred dollars ($8,500), or so much thereof as may be necessary.

COURT OF CLAIMS.

For deficiency in the appropriation for the contingent fund of the court of claims for the fiscal year ending September thirtieth, nineteen hundred and eight, the sum of four hundred dollars (re. $400) is hereby reappropriated from the unexpended balance appropriated for the salary of the court stenographer by chapter six hundred and eighty-three of the laws of nineteen hundred and six, and the further sum of one hundred eighty-nine dollars ($189), or so much thereof as may be necessary, is hereby appropriated for the same purpose, from which the court shall provide for the additional expenses of binding in buckram seven hundred copies of the opinions of the court as compiled by the deputy clerk.

STATE REPORTER.

For rebinding law reports and general laws the sum of two hundred thirty-two dollars ($232).

LIBRARIES.

For the supreme court library at Elmira for books, binding and supplies, five hundred dollars ($500), to be paid on vouchers

certified by a majority of the trustees having charge of said library.

For the salary of the librarian of the court of appeals library at Syracuse to be refunded to the treasury, one-half by the county of Onondaga and the balance by the remaining counties constituting the fifth judicial district, three thousand dollars ($3,000), or so much thereof as may be necessary.

For the eighth judicial district library at Buffalo for books, binding and supplies, five hundred dollars ($500), or so much thereof as may be necessary, to be paid on vouchers certified by a majority of the trustees having charge of such library.

LEGISLATURE.

For the clerks of the senate and assembly; for the clergymen officiating as chaplains, to be paid at the rate of five dollars for each day of attendance; for printing, stationery, supplies, file boards and record books; for preparation, proofreading and comparison of journals and financial reports, clerical and stenographic services; for printing and revising clerk's manual, books and blanks; for care of bills, documents and library; for law books and binding of books and records; for furniture and alteration of legislative rooms; for expenses of receiving reports and printed documents, storing, addressing and forwarding the same; for engrossing resolutions; for other contingent expenses; the payments for the foregoing to be made by the treasurer upon the warrant of the comptroller and the certificate of the clerk of the senate or assembly respectively; for the preparation of session indices to senate and assembly bills, journals and documents; for indexing of executive journals of the senate; and for preparation of supplementary indices to senate and assembly bills, journals and documents; payments for the same to be made by the treasurer upon the warrant of the comptroller and the certificate of the temporary president of the senate or speaker of the assembly respectively, the sum of thirty-seven thousand five hundred dollars ($37,500), or so much thereof as may be necessary.

For deficiency in the appropriation for the compensation and mileage of the members and officers of the legislature for the fiscal year ending September thirtieth, nineteen hundred eight, eleven thousand dollars ($11,000), or so much thereof as may be necessary.

For improvements, alterations and repairs to furniture and furnishings, including steel filing, supply and record cases for the

speaker's rooms, clerk's rooms, library and other legislative rooms of the assembly, ten thousand dollars ($10,000), or so much thereof as may be necessary, to be paid by the treasurer upon the warrant of the comptroller and the certificate of the speaker and clerk of the assembly.

For deficiency in appropriation for postage, express and transportation of letters, reports, documents and other matter sent by express or freight, including boxes and coverings for the same, expenses of committees, compensation of witnesses, legislative manual, clerk's manual, law and reference books and publications for the senate and assembly libraries, committees and legislature, indexing of bills, journals and documents of the senate and assembly, extra clerical services and engrossing, furniture and alteration of legislative rooms and other contingent expenses of the legislature, fifty thousand dollars ($50,000), or so much thereof as may be necessary.

For deficiency in the appropriation for payment of expenses incurred by the joint highway committee of the senate and assembly, four thousand five hundred dollars ($4,500), or so much thereof as may be necessary, to be paid by the treasurer upon the warrant of the comptroller and the certificate of the chairman of the committee.

For Celora E. Martin, for services and disbursements as counsel to senate committee appointed July twenty-fourth, nineteen hundred seven, in relation to the call by the secretary of state, under the advice of the attorney-general, for an election of senators at the election held in the year nineteen hundred seven, upon which a writ of mandamus was issued in the supreme court appealed to the appellate division of the supreme court, and by the attorney-general appealed to the court of appeals, and there argued and final judgment entered, five thousand ninety-one dollars ($5,091), or so much thereof as may be necessary.

For Abraham Greenberg for personal expenses and counsel fees incurred in the contest by Philip Reece for the thirty-first assembly district of the county of New York in nineteen hundred eight, two thousand dollars ($2,000), to be paid on the approval of the chairman of the committee on privileges and elections.

SECRETARY OF STATE.

For clerk hire, purchase of seals and badges, printing and other necessary expenses, for the enforcement of the motor vehicle law,

eight thousand dollars ($8,000), or so much thereof as may be necessary.

For furnishing steel filing cases for original corporation papers, land deeds and titles, automobile and land department indexes in the office of the secretary of state, ten thousand dollars ($10,000), or so much thereof as may be necessary.

For the purchase of the necessary law books to replace those destroyed by fire for the town of Saugerties, Ulster county, fifty dollars ($50); for the town of Moscow, Livingston county, fifty dollars ($50), and for the town of Waverly, Franklin county, fifty dollars ($50), or so much thereof as may be necessary.

For temporary clerk hire, one thousand five hundred dollars ($1,500), or so much thereof as may be necessary.

COMPTROLLER.

The sum of one thousand five hundred dollars (re. $1,500), being a portion of the unexpended balance of the appropriation made by chapter seven hundred twenty-nine, laws of nineteen hundred four, and reappropriated by chapter six hundred eighty-six, laws nineteen hundred six, for the comptroller, for the compensation and expenses of counsel employed by him in legal actions or proceedings, and for expert services in the matter of investigations, is hereby reappropriated for the same purposes.

The sum of two thousand three hundred dollars (re. $2,300), being a portion of the unexpended balance of an appropriation made by chapter six hundred eighty-three, laws of nineteen hundred six, for compensation of employees in the comptroller's office, is hereby reappropriated for furniture, books, binding, blanks, printing and other incidental office expenses, including rent of New York city office, and the further sum of two thousand dollars ($2,000), or so much thereof as may be necessary, is hereby appropriated for the same purpose.

The sum of four hundred fifty dollars (re. $450), being the unexpended balance of appropriation made by chapter five hundred seventy-seven, laws of nineteen hundred seven, for compensation of one employee in the transfer tax bureau, is hereby reappropriated for additional and temporary services in the finance bureau.

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For services and traveling expenses of five additional examiners in the stock transfer tax bureau, twelve thousand dollars ($12,000); and for services and traveling expenses of five addi-

tional examiners of municipal accounts, sixteen thousand five hundred dollars ($16,500), or so much thereof as may be necessary.

For the Phelps Union and Classical School to refund to said school a transfer tax of two hundred and fifty dollars, paid to the state comptroller on November twenty-fourth, nineteen hundred six, by the Nassau Trust Company, as executor of the last will and testament of Willard W. Dickinson, deceased, upon a legacy for said school, which tax was deducted from the amount of said legacy on the final accounting of such executor, said decedent having died subsequent to the passage of chapter three hundred sixty-eight, laws of nineteen hundred five, which wholly exempted educational corporations from the payment of transfer taxes, the sum of two hundred fifty dollars ($250), or so much thereof as may be necessary.

For deficiency in appropriation for the services of examiners for the current fiscal year for the examination of the accounts of the several county treasurers of the state, as required by chapter six hundred fifty-one of the laws of eighteen hundred ninety-two, three thousand dollars ($3,000), or so much thereof as may be necessary.

For deficiency in expenses incurred on account of the tax on taxable transfers by the assistants and clerks of the surrogate's office of New York county, one hundred eighty-six dollars ninety-nine cents ($186.99), to be paid out of any funds held by the comptroller on account of taxes collected pursuant to article ten of the general tax law.

For reimbursing the Eagle's Nest Country Club of New York city for erroneous payment of state, county, town, school and highway taxes for the years nineteen hundred six and nineteen hundred seven, on state lands in lots ten, eleven and twelve, township nineteen, Totten and Crossfield's purchase, Hamilton county, three hundred fifty-seven dollars sixty-four cents ($357.64), or so much thereof as may be necessary.

For reimbursing the county of Franklin for the expense incurred in the trial of Peter Gray, an Indian of the Saint Regis tribe, for the crime of murder committed on the Saint Regis Indian reservation, three thousand seven hundred twenty-seven dollars thirty-seven cents ($3,727.37), or so much thereof as may be necessary, to be paid on the audit of the comptroller to the

county treasurer of the county of Franklin for the use of the court fund of said county.

To refund to Fred Kastner of Potsdam one-half of a fine of two hundred dollars less county treasurer's fees paid to the treasurer of the state of New York, February 13, 1904, upon conviction of a violation of the liquor tax law, which conviction was reversed by the appellate division and the indictment dismissed, ninety-eight dollars ($98), or so much thereof as may be necessary.

The sum of one thousand dollars (re. $1,000), being a portion of the unexpended balance of an appropriation made by chapter six hundred eighty-three, laws of nineteen hundred six, for the salary of the deputy comptroller, is hereby reappropriated for postage and transportation of letters, official documents and other matters sent by express or freight, including boxes or covering for same.

For deficiency in appropriation for protecting and perfecting the state's title to lands, five hundred dollars ($500), or so much thereof as may be necessary.

For furniture, repairs and floor covering, two thousand five hundred dollars ($2,500), or so much thereof as may be necessary.

For deficiency in appropriation for advances to county treasurers on account of taxes on property of nonresidents and for taxes on state, wild or forest lands, which may be returned to the comptroller's office and for adjusting accounts of state taxes with counties, sixty thousand dollars ($60,000), or so much thereof as may be necessary.

For fees of surrogates in furnishing to the secretary of state copies of letters of administration and copies of wills probated in other states and subsequently filed in this state, as provided by section two thousand five hundred three, code of civil procedure, two hundred dollars ($200), or so much thereof as may be necessary.

For the reimbursement of the several counties for the maintenance of county roads pursuant to chapter two hundred sixty-nine, laws of nineteen hundred three, sixty thousand one hundred seven dollars and ninety-one cents ($60,107.91), or so much thereof as may be necessary.

For the payment of the balance due for the repair and construction of the buildings at the Lake George state park in the year nineteen hundred six, two hundred eight dollars ($208).

For the payment of assessments on state property for local improvements heretofore made, when approved by the comptroller, pursuant to section twenty of the public lands law, one thousand

three hundred dollars ($1,300), or so much thereof as may be necessary, and for investigations of claims for assessments filed in the office of the comptroller, two hundred dollars ($200), or so much thereof as may be necessary.

For the payment of an agent or agents and for their necessary expenses in the enforcement of the act to license and regulate the business of private detective and detective agencies, one thousand five hundred dollars ($1,500), or so much thereof as may be necessary.

The sum of one thousand five hundred dollars (re. $1,500), being a portion of the unexpended balance of an appropriation made by chapter six hundred eighty-six, laws of nineteen hundred six, for the payment of judgments against the state for costs duly awarded in certain actions brought pursuant to law, to be paid upon the certificate of the attorney-general, is hereby reappropriated; and the further sum of five thousand five hundred dollars ($5,500) is hereby appropriated for the same purpose.

To supply the deficiency in the appropriation provided by chapter six hundred fifty-four, laws of eighteen hundred ninety-nine, to be paid upon the filing of the proper vouchers in accordance with the provisions of such chapter to George H. Grosvenor, six hundred sixty-nine dollars ($669); Fred J. Pierce, four hundred forty-six dollars ($446), or so much thereof as may be necessary.

For the payment of the several amounts adjudged to be paid to the J. J. Newman Lumber Company and others, by the judgment rendered December thirteenth, nineteen hundred and seven, in an action in the supreme court of Monroe county wherein the J. J. Newman Lumber Company was plaintiff and J. Cady Wemple, the state of New York and others, were defendants, on account of liens against contract of Schenectady Engineering and Construction Company, for construction of sixteen cottages and sixteen barns at the State Industrial School in Monroe county, including interest on such several amounts, thirty-four thousand three hundred fifty-one dollars and ninety cents ($34,351.90), or so much thereof as may be necessary. Interest on such several amounts to be computed and paid from the thirteenth day of December, nineteen hundred and seven, but not beyond the twentieth day after this appropriation becomes available.

For Julius M. Mayer and Danforth E. Ainsworth, in full compensation for their services as counsel to the state superintendent

of insurance during the investigation of the affairs of the insurance department conducted by Matthew C. Fleming, commissioner under appointment by the governor dated August twelfth, nineteen hundred seven, and in full compensation for their services as counsel to said superintendent of insurance in the proceedings for his removal from office on the recommendation of the governor in his message to the senate dated February eleventh, nineteen hundred eight, the sum of two thousand five hundred dollars ($2,500).

ATTORNEY-GENERAL.

For the payment of attorneys, counsel, deputies, agents and commissioners employed by him in pursuance of law, including the compensation of witnesses, fifteen thousand dollars ($15,000), or so much thereof as may be necessary.

For the payment of attorneys, counsel, and deputies designated or employed in actions or proceedings brought in pursuance of the provisions of the executive law, ten thousand dollars ($10,000), or so much thereof as may be necessary, but no warrants shall be issued for such payments until the amounts claimed shall be certified, audited and allowed by the attorney-general and the governor.

For the expenses of investigating claims on behalf of, or against the state, three thousand dollars ($3,000), or so much thereof as may be necessary.

For special investigations of violations of the laws against monopolies, of the election and tax laws, of the laws affecting public service corporations and of any other laws of the state which it is the duty of the attorney-general to enforce, or of complaints of such violations, ten thousand dollars ($10,000), or so much thereof as may be necessary.

For the expenses of his office, including furniture, books, binding, blanks, printing, express or freight upon letters, documents or other matters, sent by express or freight, including boxes or other covering for the same, telegraph, telephone or messenger service and other expenses of the attorney-general in the conduct of his office, including temporary, clerical and stenographic service, five thousand dollars ($5,000), or so much thereof as may be necessary. Not to exceed two-thirds of the total of each of the foregoing items shall be available for expenditure during the present calendar year.

For the New York city bureau of the attorney-general's office:

For the compensation of special counsel and deputies and for

office rent, furniture, books, binding, blanks, postage, messengers and other necessary incidental expenses, including temporary clerical and stenographic service, seven thousand dollars ($7,000), or so much thereof as may be necessary.

For expenses in the action of the People of the State of New York against George B. McClellan and William R. Hearst, including witness fees and for securing the attendance of witnesses and for services and expenses of counsel, clerks, assistants, accountants, watchmen, stenographers, transportation and other incidental expenses, ten thousand dollars ($10,000), or so much thereof as may be necessary.

Said New York city bureau shall keep a docket, in which shall be entered a record of all cases and proceedings pending, of a civil or criminal nature, in which the people of the state of New York, or any officer or department of the state, shall be a party, represented by the said New York city deputy or his assistant or special counsel, and shall make a report daily of his proceedings in all such cases and proceedings to the attorney-general. The said New York city deputy shall have, under the direction of the attorney-general, immediate charge of all matters referred to in section fifty-seven of the executive law, the agricultural law, and all matters in which the attorney-general represents the state arising or existing within the limits of New York city. All fees, costs and fines collected by the New York city deputy or by his assistants, shall, on the day of the receipt thereof, be transmitted to the attorney-general, who shall deposit the same with the treasurer of the state of New York.

For additional compensation for the deputy in the New York city office, five hundred dollars ($500).

For deficiency in the appropriation for printing for the year ending September thirtieth, nineteen hundred six, two thousand one hundred fifteen dollars and sixty cents ($2,115.60), or so much thereof as may be necessary, the same to be used for the payment of a certificate for that sum, issued by the comptroller on account of printing law briefs ordered by Attorney-General Mayer, and completed during the term of Attorney-General Jackson.

STATE TREASURER.

For the deficiency in appropriations for the traveling expenses of the state treasurer for the fiscal year ending September thirtieth, nineteen hundred eight, five hundred dollars ($500), or so much thereof as may be necessary.

For the deficiency in appropriation for office expenses of the state treasurer for the fiscal year ending September thirtieth, nineteen hundred eight, five hundred dollars ($500), or so much thereof as may be necessary.

For temporary services, five hundred dollars ($500), or so much thereof as may be necessary.

For reimbursing the National Commercial Bank of Albany for the nonpayment of checks deposited by the treasurer of the state in said bank on account of corporation, organization and racing taxes, agricultural fines, and for protest fees, eleven hundred sixty-nine dollars and ninety-seven cents ($1,169.97), or so much thereof as may be necessary.

STATE ENGINEER AND SURVEYOR.

For the payment of work done and for continuing such work in co-operation with the United States geological survey in surveying and mapping the state of New York in the manner defined by chapter two hundred nineteen, laws of eighteen hundred ninety-eight, ten thousand dollars ($10,000), or so much thereof as may be necessary.

For co-operation with the United States geological survey in hydrographic work connected with the measurements of volumes of streams and flow of water in the state of New York, for the purpose of determining the water supply available for canals and for potable and domestic uses, and the development of water powers, one thousand five hundred dollars ($1,500), or so much thereof as may be necessary.

For surveys and maps for the use of the attorney-general in cases before the court of claims arising on account of the canals of the state, and for other expenses connected therewith, two thousand five hundred dollars ($2,500), or so much thereof as may be necessary, payable from the canal fund.

For the supervision of the expenditure of moneys in towns under the money system, pursuant to sections fifty-five-c and fifty-five-d of the highway law, ten thousand dollars ($10,000), or so much thereof as may be necessary.

For the maintenance and repair of improved highways, pursuant to chapter one hundred fifteen, laws of eighteen hundred ninety-eight, as amended by chapter four hundred sixty-eight, laws of nineteen hundred six, to become available on January first, nineteen hundred nine for expenses incurred subsequent to that

date, one hundred thousand dollars ($100,000), or so much thereof as may be necessary.

For furniture, books, binding, blanks, printing messages and other incidental office expenses, five hundred dollars ($500), or so much thereof as may be necessary.

For salaries and actual and necessary expenses of a chief bridge designer and inspector, and the necessary assistants, draughtsmen and supplies, two thousand dollars ($2,000), or so much thereof as may be necessary.

The sum of three thousand five hundred dollars (re. $3,500), being the unexpended balance of the appropriation made by chapter six hundred eighty-six, laws of nineteen hundred six for monuments and maps, is hereby reappropriated for the same purposes described in the original appropriation.

DEPARTMENT OF AGRICULTURE.

For enforcing the provisions of article four of the agricultural law, relating to the diseases of domestic animals, seventy thousand dollars ($70,000).

For the purpose of enforcing the provision of article eleven of the agricultural law, relating to the adulteration and misbranding of food, ten thousand dollars ($10,000), or so much thereof as may be necessary.

For expenses of the field work in enforcing the provisions of articles nine and twelve of the agricultural law, relating to concentrated commercial feeding stuffs and commercial fertilizers, five thousand dollars ($5,000), or so much thereof as may be necessary.

For George Bernhard for extra services rendered by him while acting as assistant commissioner in the eighth division, from August first, nineteen hundred seven to April tenth, nineteen hundred eight, two hundred twenty-five dollars nine cents ($225.09).

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For collecting and disseminating information relative to agricultural labor within the state, as provided by article fourteen of the agricultural law, seven thousand five hundred dollars ($7,500), or so much thereof as may be necessary.

For Henry H. Kracke, for compensation for extra services and expenses as butter expert in the metropolitan district, five hundred dollars ($500).

For the continuation and extension of farmers' institutes, five thousand dollars ($5,000), or so much thereof as may be necessary.

The balance of four thousand five hundred eighty-three dollars and eighty cents (re. $4,583.80), being the unexpended balance of an appropriation made for the commissioner of agriculture for the purpose of defraying expenses incurred in or for paying damages resulting from litigation in which he or any of his appointees or employees may be made defendants, either as officials or individuals, in which the questions litigated involve their action as either officials or employees, in the enforcement of the agricultural law, is hereby reappropriated for the same purpose.

For deficiency in the appropriation for distribution to the growers of sugar beets, during the season of nineteen hundred seven, or their assignees or legal representatives, whose names have been filed with the commissioner of agriculture, pursuant to article five of the agricultural law and amendments thereto, thirty-three thousand seven hundred eighty dollars and thirty-one cents ($33,780.31), or so much thereof as may be necessary.

For the department of agriculture, to pay the claim of Hiram Smith, of Massena, N. Y., for cattle killed by order of the commissioner, July tenth, nineteen hundred five, seven hundred thirteen dollars and eighty cents ($713.80), or so much thereof as may be necessary.

NEW YORK STATE EXPERIMENT STATION.

The sum of seven thousand five hundred dollars (re. $7,500) being the unexpended balance of an appropriation made by chapter six hundred seventy-four of the laws of nineteen hundred six, for the construction of two dwelling houses, and the sum of fifteen thousand dollars (re. $15,000), being the unexpended balance made by chapter five hundred seventy of the laws of nineteen hundred seven for erecting three dwelling houses on the station grounds and heating, lighting and plumbing the same, are hereby reappropriated for the erection of five dwelling houses upon said grounds and the heating, lighting and plumbing of the same and the further sum of ten thousand dollars ($10,000) is appropriated for the same purpose in addition thereto.

STATE FAIR COMMISSION.

For the salaries of the commissioners, fifteen thousand dollars ($15,000); of the secretary of the commission, two thousand dol-

lars ($2,000); of the treasurer of the commission, one thousand dollars ($1,000); of the superintendents, two thousand five hundred dollars ($2,500); of the gardeners, nine hundred dollars ($900); of the racing secretary, one thousand dollars ($1,000); of the secretary of the horse show department, seven hundred fifty dollars ($750); for the expenses of the commission, four thousand dollars ($4,000); for printing and advertising, ten thousand dollars ($10,000); for insurance, three thousand dollars ($3,000); for fencing grounds, including new purchase, two thousand five hundred dollars, ($2,500); for maintenance, improvement of grounds and general repairs, ten thousand dollars ($10,000), and the further sum of five thousand dollars (re. $5,000), being the unexpended balance of an appropriation made by chapter seven hundred fifty-seven of the laws of nineteen hundred seven for the purposes specified in that chapter, which is hereby reappropriated for the purpose of such maintenance, improvement and general repairs.

For apportionment to agricultural fairs under the provisions of section eighty-eight of the agricultural law two hundred fifty thousand dollars ($250,000), or so much thereof as may be necessary.

STATE ARCHITECT.

For the salary of the deputy state architect for the balance of the fiscal year, two thousand dollars ($2,000), or so much thereof as may be necessary.

For deficiency in appropriation for salaries of draughtsmen and tracers, three thousand dollars ($3,000), or so much thereof as may be necessary.

For deficiency in appropriation for salaries of building inspectors, two thousand dollars ($2,000), or so much thereof as may be necessary.

For three stenographers in the sixth grade in settlement in full of their claims for arrears of salary to May first, nineteen hundred eight, nine hundred fifty dollars ($950), or so much thereof as may be necessary.

The sum of three hundred sixty-five dollars and sixty-eight cents (re. $365.68), being the unexpended balances of appropriations for salary of heating engineer and salaries of two stenographers made by chapter six hundred ninety-nine, of the laws of nineteen hundred five, together with the sum of eighty dollars and sixteen cents (re. $80.16), being the unexpended balance of

the appropriations for structural engineer and salary of one employee of the third grade made by chapter six hundred eighty-three, laws of nineteen hundred six, and the further sum of three hundred dollars (re. $300), being the unexpended balance of appropriation for salary of one engineer for the balance of the fiscal year made by chapter five hundred seventy-eight, laws of nineteen hundred and seven, is hereby reappropriated for office supplies and expenses, and the further sum of one thousand dollars ($1,000), is also appropriated for the same purpose.

BANKING DEPARTMENT.

For the salaries of:

the deputy in the branch office in New York city from May first, nineteen hundred eight, to September thirtieth, nineteen hundred eight, two thousand eighty-three dollars and thirty cents ($2,083.30);

the chief clerk from April first, nineteen hundred eight, to September thirtieth, nineteen hundred nine, four thousand five hundred dollars ($4,500), which amount shall be refunded to the treasury from the interest earned by the moneys deposited with the superintendent of banks under section one hundred thirty-five of chapter six hundred eighty-nine of the laws of eighteen hundred ninety-two by the receivers of insolvent savings banks and by the trustees of solvent savings banks voluntarily closing their business.

first deputy in the Albany office, for additional salary from October first, nineteen hundred seven, to September thirtieth, nineteen hundred eight, one thousand dollars ($1,000).

sixth grade, confidential stenographer in branch office in New York from December first, nineteen hundred seven, to September thirtieth, nineteen hundred eight, eight hundred and thirty-three dollars and thirty-three cents ($833.33);

card index filing clerk, from April first, nineteen hundred eight, to September thirtieth, nineteen hundred eight, five hundred dollars ($500).

For the payment of examiners of corporations and individual bankers, pursuant to the provisions of the banking law, twenty-five thousand dollars ($25,000), or so much thereof as may be necessary.

For additional rent for the branch office of the department in New York city, from May first, nineteen hundred eight, to September thirtieth, nineteen hundred eight, two hundred eighty-one dollars and twenty-five cents ($281.25).

For metal filing cases and for furniture and furnishings for the branch office of the department in New York city, one thousand five hundred dollars ($1,500).

For a contingent fund to be used by the superintendent of banks to pay contingent expenses in connection with the administration of the banking department from October first, nineteen hundred seven, to September thirtieth, nineteen hundred eight, five thousand dollars ($5,000).

The amounts required for the aforesaid salaries, clerk hire, payment of examiners and other expenses above mentioned shall be refunded to the treasury pro rata, according to the aggregate resources of each, by the savings banks, trust companies, banks, individual bankers, safe deposit companies, securities companies, mortgage loan and investment corporations, personal loan associations, building and mutual loan corporations or associations, and co-operative loan associations that are subject to the supervision of the superintendent of banks and required by law to make reports to the banking department.

STATE BOARD OF CHARITIES.

For deficiency in maintenance, transportation and removal of state, non-resident and alien poor, five thousand dollars ($5,000), or so much thereof as may be necessary.

CIVIL SERVICE COMMISSION.

For deficiency in appropriation for expenses of examinations, and compensation of temporary, local and expert examiners, two thousand dollars ($2,000), or so much thereof as may be necessary.

For deficiency in appropriation for postage and transportation of letters, official documents and other matter sent by express or freight, including boxes or covering for same, five hundred dollars ($500), or so much thereof as may be necessary.

The sum of three hundred sixty-nine dollars and forty-five cents (re. $369.45); being the unexpended balance of the appropriations for salaries of examiners made by chapter six hundred

eighty-three, laws of nineteen hundred six, two hundred eight dollars and seventy-one cents (re. $208.71); the unexpended balance of the appropriation made for salary of one employee of the first grade by chapter five hundred seventy-eight, laws of nineteen hundred seven, twenty-eight dollars (re. $28); and the unexpended balance of the appropriations for salaries of clerks and stenographers made by chapter five hundred seventy-seven, laws of nineteen hundred seven, one hundred thirty-two dollars and seventy-four cents (re. $132.74); is hereby re-appropriated for salaries of temporary employees or for other necessary office expenses of the civil service commission.

For deficiency in the salary of Julia M. Ryan for the fiscal year beginning October first, nineteen hundred seven, two hundred dollars ($200).

DEPARTMENT OF EDUCATION.

For repairs, renewals and betterments of buildings, equipment, fixtures, furniture and such additional accommodations in the state normal schools as may be necessary, sixty thousand dollars ($60,000), or so much thereof as may be necessary.

For furniture, fixtures, equipment and apparatus for the new state normal school building at New Paltz, and for grading the grounds of the same, fifteen thousand dollars ($15,000), or so much thereof as may be necessary.

For repairs and improvements of school buildings and the purchase of necessary supplies for the Indian schools on the Allegany, Cattaraugus, Onondaga, Tonawanda, Tuscarora, Saint Regis, Shinnecock and Poospatuck Indian reservations, seven thousand dollars ($7,000), or so much thereof as may be necessary.

The sum of one thousand four hundred seventy-one dollars and twenty-nine cents ($1,471.29), or so much thereof as may be necessary, of the moneys appropriated by chapter six hundred eighty-six, laws of nineteen hundred six, and by chapter five hundred seventy-eight, laws of nineteen hundred seven, for the transportation, maintenance, and support of Indian truants, pursuant to the provisions of section nine of chapter four hundred twenty-four, laws of nineteen hundred four, is hereby reappropriated for the same purpose and for the support and instruction of deaf and dumb Indian wards of this State in any of the schools for the deaf in this state until said wards reach the age of twelve years.

For deficiency in appropriation for the training of teachers made by chapter five hundred seventy-seven, laws of nineteen hundred seven, thirty-four thousand nine hundred six dollars ($34,906), or so much thereof as may be necessary.

From this appropriation each union free school district which maintained a training class during the school year ending July thirty-first, nineteen hundred seven, but which failed to maintain a membership of at least ten as required by law, shall be apportioned such a part of five hundred dollars as the number of members actually maintained during the year is a part of ten members required by law to entitle a class to apportionment.

For deficiency in the appropriation for common schools, fifty-three thousand dollars ($53,000), or so much thereof as may be necessary, to be apportioned by the commissioner of education in the same manner as that prescribed for the apportionment of moneys appropriated to common schools by chapter five hundred seventy-seven, laws of nineteen hundred seven.

For deficiency in the appropriation for cities, academies, academic departments and libraries, fifty thousand dollars ($50,000), or so much thereof as may be necessary, to be apportioned by the commissioner of education in the same manner as prescribed in a similar appropriation provided by chapter five hundred seventy-seven, laws of nineteen hundred seven.

For medical examinations, payable only from fees collected pursuant to statute for such examinations, nineteen thousand dollars ($19,000), to be expended as follows:

for expenses of medical examinations, including postage, express, parchment for licenses, printing, engraving, supplies, office expenses of secretary, traveling expenses of examiners, rooms for holding examinations and services of persons temporarily employed to conduct such examinations, six thousand dollars ($6,000), or so much thereof as may be necessary;

for apportionment to the state board of medical examiners, nine thousand dollars ($9,000), to be divided pro rata according to the number of candidates whose answer papers have been marked by each;

for the salary of the secretary of the state board of medical examiners for the year beginning June first, nineteen hundred eight, pursuant to chapter three hundred forty-four, laws of nineteen hundred seven, four thousand dollars ($4,000).

For expenses of dental examinations, including postage, express, parchment for licenses, printing, engraving, supplies, traveling expenses of examiners, rooms for holding examinations and services of persons temporarily employed to conduct such examinations, and for the payment of the surplus to the state dental society as provided in chapter two hundred fifteen, laws of nineteen hundred one and amendments thereto, six thousand dollars ($6,000), or so much thereof as may be necessary, payable only from fees collected for such examinations.

For expenses of the veterinary examinations, including postage, express, parchment for licenses, printing, engraving, supplies, traveling expenses of examiners, rooms for holding examinations and services of persons temporarily employed to conduct such examinations, two hundred dollars ($200), or so much thereof as may be necessary, and for apportionment on the basis provided in chapter six hundred sixty-one, laws of eighteen hundred ninety-three and the amendments thereto, three hundred dollars ($300), or so much thereof as may be necessary, payable only from fees collected for such examinations.

For expenses of examinations of certified public accountants pursuant to chapter three hundred twelve, laws of eighteen hundred ninety-six, including postage, express, parchment for licenses, printing, engraving, supplies, traveling expenses of examiners, rooms for holding examinations and services of persons temporarily employed to conduct such examinations, one thousand dollars ($1,000), or so much thereof as may be necessary, payable only from fees collected for such examinations.

For expenses of examination of registered nurses, pursuant to article twelve of the public health law, three thousand eight hundred dollars ($3,800), to be expended as follows:

For salary of inspector of nurse training schools one thousand eight hundred dollars ($1,800).

For expenses of nurse training examinations, including postage, express, parchment for certificates, printing, engraving, supplies, traveling expenses of examiners and inspectors, rooms for holding examinations and services of persons employed temporarily to conduct such examinations, two thousand dollars ($2,000), or so much thereof as may be necessary, payable from fees collected for such examinations.

The sum of two hundred fifty-eight thousand, six hundred thirty-one dollars and fifty-four cents (re. $258,631.54), being the

unexpended balance of the appropriation made by chapter four hundred thirty-five, laws of nineteen hundred six, for the erection of the state normal college building at Albany, is hereby reappropriated for the same purpose.

For deficiency in the appropriation for temporary services in the several divisions of the education department except for the divisions of science and teachers' institutes, four thousand dollars ($4,000), or so much thereof as may be necessary.

STATE SUPERINTENDENT OF ELECTIONS.

For the salaries:

Of the counsel to the superintendent from April first to October first, nineteen hundred eight, two thousand dollars ($2,000).

Of the field deputy from April first to October first, nineteen hundred eight, one thousand dollars ($1,000);

Of the deputy state superintendents of elections from April first to October first, nineteen hundred eight, fifteen thousand dollars ($15,000);

For office expenses incurred in carrying out the provisions of the laws relating to the metropolitan elections district, ten thousand dollars ($10,000), or so much thereof as may be necessary.

DEPARTMENT OF EXCISE.

* * * * * * * * * *

For expenses of special agent service, including salaries of sixty special agents, and salary and expenses of special detective service, seventeen thousand five hundred dollars ($17,500), or so much thereof as may be necessary.

For printing and binding ten thousand copies of an annotated edition of the liquor tax law, one thousand eight hundred dollars ($1,800), or so much thereof as may be necessary.

The sum of four thousand eight hundred sixty-four dollars and ninety-five cents (re. $4,864.95), being the unexpended balances of the appropriations made by chapter six hundred eighty-three, laws of nineteen hundred six, for salaries, Albany office, four thousand two hundred twenty-eight dollars and forty-six cents (re. $4,228.46); salaries, Brooklyn office, four hundred eleven dollars and sixty-nine cents (re. $411.69); salaries, Buffalo office, twenty-eight dollars and fifty cents (re. $28.50); salary and ex-

penses, Queens office, one hundred forty-three dollars and sixty-one cents (re. $143.61); salary and expenses, Richmond office, thirteen dollars and fourteen cents (re. $13.14); salary and expenses Monroe office, thirty-nine dollars and fifty-five cents (re. $39.55), is hereby reappropriated for the following purposes:

For the actual and necessary traveling expenses of the state commissioner of excise, two hundred twenty-five dollars ($225); for the state's one-half share of the deficiency in salary of the special deputy commissioner of excise for the boroughs of Manhattan and the Bronx, from May thirteenth, nineteen hundred and seven, to October first, nineteen hundred and seven, one hundred ninety-two dollars and twenty cents ($192.20); for the state's one-half share of the deficiency in salary of the special deputy commissioner of excise for the borough of Brooklyn, from May thirteenth, nineteen hundred and seven, to October first, nineteen hundred and seven, one hundred forty-four dollars and sixteen cents ($144.16); for the state's one-half share of the deficiency in salary of the special deputy commissioner of excise for the county of Monroe, ninety-six dollars and ten cents ($96.10); for the state's one-half share of the expense for furniture and fixtures in the office of the special deputy commissioner of excise for the borough of Queens, one hundred fifty dollars ($150), or so much thereof as may be necessary; for the payment of expenses incurred in connection with the shooting and death of Joseph Dardano, at Belfast, New York, on December twenty-first, nineteen hundred and seven, while in the employ of the state department of excise, as a special detective, such as medical attendance, hospital charges and burial services, the sum of eight hundred eighty dollars and thirty-three cents ($880.33), or so much thereof as may be necessary, the same to be paid on the audit and approval of the state commissioner of excise; for temporary services, three thousand one hundred seventy-seven dollars and sixteen cents ($3,177.16), or so much thereof as may be necessary.

FISCAL SUPERVISOR.

The sum of one thousand five hundred dollars (re. $1,500) appropriated by chapter five hundred seventy-seven of the laws of nineteen hundred and seven for the salary of secretary, is hereby reappropriated for the salary of the deputy fiscal supervisor, and

the further sum of two hundred fifty dollars ($250) is hereby appropriated for the same purpose.

FOREST, FISH AND GAME COMMISSION.

The sum of three thousand dollars (re. $3,000), being a portion of the unexpended balance of an appropriation made by chapter six hundred thirty-eight, laws of nineteen hundred six, for the expenses of game protectors, is hereby reappropriated for the payment of extra expenses of protectors in the discharge of duty outside their respective districts in special cases when acting under the order of the commissioner or chief protector.

For maintenance and hiring of steamboats and launches for patrolling the waters of the state, two thousand dollars ($2,000), or so much thereof as may be necessary.

For rebates due the various towns on account of bills paid by them for the suppressing of forest fires under chapter twenty, laws of nineteen hundred, as amended, and for printing and posting notices for the prevention of forest fires in the forest preserve, five thousand dollars ($5,000), and for the payment of fire patrols in accordance with chapter twenty, laws of nineteen hundred, as amended by chapter two hundred ninety-five, laws of nineteen hundred five, two thousand dollars ($2,000), or so much thereof as may be necessary.

For the payment of justices, constables, attorneys, court costs and surveying in prosecutions for violations of the forest, fish and game law, twenty-five thousand dollars ($25,000), or so much thereof as may be necessary, to be paid from moneys received from fines and penalties pursuant to chapter twenty, laws of nineteen hundred, as amended.

For extraordinary repairs and betterments, for Adirondack hatchery, Bath hatchery, Caledonia hatchery, Cold Spring Harbor hatchery, Chautauqua hatchery, Delaware hatchery, Fulton Chain hatchery, Oneida hatchery and Linlithgo hatchery, ten thousand dollars ($10,000), or so much thereof as may be necessary.

For the construction of a dwelling-house for the expert forester in charge of the state nurseries at Saranac Inn station, Franklin county, two thousand dollars ($2,000), or so much thereof as may be necessary.

For traveling expenses, calcium light, photographic work and colored slides in delivering illustrated lectures on the subject of forestry and the reforesting of denuded lands, one thousand dollars ($1,000), or so much thereof as may be necessary.

For continuing the survey, improving and plotting the state lands now under lease or to be leased in the future for the shellfish industry, two thousand dollars ($2,000), or so much thereof as may be necessary.

For rent, stationery, postage and office expenses of the shellfish office in New York city, one thousand five hundred dollars ($1,500), or so much thereof as may be necessary.

For the completion of the new Adirondack map in conformity with the sheets issued by the United States geological survey, two hundred and eighty-five dollars ($285).

For making surveys, witness, court and counsel fees in protecting the state's title and interest in state land in the forest preserve, four thousand dollars ($4,000), or so much thereof as may be necessary.

For establishing additional nurseries for the propagation of of forest trees to be furnished to citizens of the state at cost and planted under direction and regulation of the forest, fish and game commission, and to be used in reforesting denuded and burned lands in the forest preserve, ten thousand dollars ($10,000).

For deficiency in the salary of the deputy commissioner from April fifteenth, nineteen hundred eight, to October first, nineteen hundred nine, seven hundred twenty-nine dollars and seventeen cents. ($729.17).

For salary of confidential secretary to the commissioner from June first, nineteen hundred eight, to October first, nineteen hundred nine, two thousand six hundred sixty-six dollars and sixty-six cents ($2,666.66), or so much thereof as may be necessary.

For the salary of an assistant superintendent of forests from June first, nineteen hundred eight, to October first, nineteen hundred nine, two thousand six hundred sixty-six dollars and sixty-six cents ($2,666.66), and for his expenses for same period, one thousand two hundred dollars ($1,200), or so much thereof as may be necessary.

For deficiency in salary of chief fish and game protector from April fifteenth, nineteen hundred eight, to October first, nineteen hundred nine, seven hundred twenty-nine dollars and seventeen cents ($729.17).

For deficiency in salary of superintendent of marine fisheries from April fifteenth, nineteen hundred eight, to October first. nineteen hundred nine, seven hundred twenty-nine dollars and seveteen* cents ($729.17.)

* So in original.

For salary of deputy superintendent of marine fisheries from April fifteenth, nineteen hundred eight, to October first, nineteen hundred nine, two thousand nine hundred sixteen dollars and sixty-six cents ($2,916.66); and for his necessary expenses for same period one thousand twenty dollars and eighty-three cents ($1,020.83).

For salary of secretary of marine fisheries bureau from April fifteenth, nineteen hundred eight, to October first, nineteen hundred nine, two thousand six hundred twenty-five dollars ($2,625).

For the salary of the engineer of marine fisheries bureau from April fifteenth, nineteen hundred eight, to October first, nineteen hundred nine, two thousand nine hundred sixteen dollars and sixty-six cents ($2,916.66); and for his necessary expenses for same period one thousand twenty dollars and eighty-three cents ($1,020.83).

For deficiency in salaries of game protectors from April fifteenth, nineteen hundred eight, to October first, nineteen hundred nine, forty-five thousand eight hundred nine dollars and fifty-six cents ($45,809.56), and for deficiency in their expenses for same period seventeen thousand five hundred thirty-four dollars and thirty-one cents ($17,534.31).

For constructing a gallery in the general office of the forest, fish and game commission for the storing of filing cases for records and papers, one thousand dollars ($1,000), or so much thereof as may be necessary.

For salary of an additional attorney for the legal department from June first, nineteen hundred eight, to October first, nineteen hundred nine, three thousand three hundred thirty-three dollars and thirty-three cents ($3,333.33).

For the purpose of printing and distributing among the town, county and city clerks of the state, blanks for resident and non-resident hunting licenses, the sum of two thousand five hundred dollars ($2,500).

For additional clerical assistance in the office of the bureau of marine fisheries, New York city, two thousand five hundred dollars ($2,500), or so much thereof as may be necessary.

For collecting and purchasing fish eggs, one thousand dollars ($1,000), or so much thereof as may be necessary.

LAND PURCHASE BOARD.

The sum of fifty-four thousand nine hundred sixty-eight dollars and sixty-two cents (re. $54,968.62), being the balance remaining

unexpended of the money appropriated by chapter six hundred seventy-three, laws of nineteen hundred six, and chapter six hundred fifty-seven, laws of nineteen hundred seven, for the acquisition of land within the limits of the Catskill preserve, is hereby reappropriated for the same purpose; and the sum of five hundred forty-eight thousand eight hundred seventeen dollars and forty-two cents (re. $548,817.42), being the balance remaining unexpended of the money appropriated by chapter six hundred seventy-three, laws of nineteen hundred six, and chapter six hundred fifty-seven, laws of nineteen hundred seven, for the acquisition of land within the Adirondack park, is hereby reappropriated for the same purposes, and the land purchase board, as defined by chapter ninety-four, laws of nineteen hundred one, and the acts amendatory thereof and supplemental thereto, is authorized to acquire in the same manner and pay for the same out of the said sum hereby reappropriated any solid body of wild forest land lying partly within and partly without the limits of the Adirondack park as now defined by statute, provided the governor of the state shall approve in writing of such acquisition.

HEALTH DEPARTMENT.

The sum of five hundred and three dollars and thirty-eight cents (re. $503.38), being the unexpended balance of appropriations made by chapter six hundred and eighty-three, laws of nineteen hundred and six, and the sum of four hundred and thirty-nine dollars and twenty cents (re. $439.20), being the unexpended balance of appropriations made by chapter five hundred and seventy-seven, laws of nineteen hundred seven, for services of employees, are hereby reappropriated for additional or temporary services in said office.

For suppressing epidemics of smallpox and other contagious or infectious diseases in the several municipalities of the state, seven thousand five hundred dollars ($7,500), or so much thereof as may be necessary.

For investigations of sewage, sewage disposal, factory and commercial wastes, watersheds, ice inspection, public nuisances, registration of vital statistics and violations of the public health law, two thousand five hundred dollars ($2,500), or so much thereof as may be necessary.

For deficiency in the appropriation for traveling expenses of the employees of the department in the discharge of official duties

pursuant to the written direction of the commissioner, one thousand dollars ($1,000), or so much thereof as may be necessary.

For deficiency in appropriation for postage and transportation of letters, official documents and other matter sent by express or freight, including boxing or covering for same, one thousand dollars ($1,000), or so much thereof as may be necessary.

For collecting, maintaining and transporting the traveling exhibits of tuberculosis for the education of the public, and the giving of lectures, and the distribution of circulars and pamphlets in connection therewith, and for the expenses incident to the representation of the state at the international congress on tuberculosis at Washington, District of Columbia, in nineteen hundred eight, ten thousand dollars ($10,000), or so much thereof as may be necessary.

For filing cases for the records of the department and for other office equipment, to be expended under the supervision and approval of the superintendent of public buildings, two thousand five hundred dollars ($2,500), or so much thereof as may be necessary.

For the printing of the marriage licenses and record books for town, city and county clerks, and express charges for distribution of same, ordered pursuant to chapter seven hundred forty-two, laws of nineteen hundred seven, sixteen thousand seven hundred dollars ($16,700), or so much thereof as may be necessary.

STATE CANCER LABORATORY AT BUFFALO.

For the maintenance and equipment of the state cancer laboratory at Buffalo, for investigation into the cause, nature, mortality, rate and treatment of cancer, including salaries and the publication of at least one thousand copies of the annual report, eighteen thousand dollars ($18,000), or so much thereof as may be necessary; the vouchers for which shall be officially verified by the chairman, or one of the directors of the said laboratory, and approved by the state commissioner of health. The annual report of the laboratory shall be presented to the legislature on or before March first of each year.

DEPARTMENT OF HIGHWAYS.

PAYABLE FROM THE HIGHWAY FUND.

For the salaries and expenses incident to the establishment of the department of highways from January first to September thirtieth, nineteen hundred nine:

of the commissioners, twelve thousand dollars ($12,000);
of the deputies and secretary, seven thousand eight hundred seventy-five dollars ($7,875);
of division engineers, thirteen thousand five hundred dollars ($13,500);
of employees in the office of the commission and the several division engineer's offices, thirty thousand dollars ($30,000), or so much thereof as may be necessary.

For the travelling expenses of the commissioners and other employees as provided by section fourteen of the highway law, ten thousand dollars ($10,000);

For postage, printing, blanks, office supplies, express, telephone and telegraph charges and rent, fifteen thousand dollars ($15,000);

For the salaries of district superintendents, twenty-five thousand dollars ($25,000), or so much thereof as may be necessary, to be refunded into the state treasury as provided by section thirty-one of the highway law.

STATE HISTORIAN.

The sum of six hundred and thirty dollars (re. $630), being part of the unexpended balance of an appropriation made by chapter five hundred seventy-seven, laws of nineteen hundred seven, for the salary of the stenographer for the state historian, is hereby reappropriated for the salary of an expert copyist for the state historian from March nineteen hundred eight to September nineteen hundred eight, both inclusive.

INSURANCE DEPARTMENT.

For deficiency in the appropriation for printing one thousand copies of five volumes of the report to the legislature of nineteen hundred seven, one thousand five hundred dollars ($1,500), or so much thereof as may be necessary.

* * * * * * * * * *

The following amounts are hereby appropriated for the superintendent of insurance and authorized to be paid by the treasurer on the warrant of the comptroller out of any moneys in the treasury, not otherwise appropriated, for the purpose of providing for an appraisal of the values of securities owned by insurance corporations and the audit of annual financial statements reported by such corporations as of December thirty-first, from the date this act shall take effect until the close of the fiscal year, September thirtieth, nineteen hundred and eight:

For the rent of additional room at the New York city office, five hundred dollars;

for furnishing such additional room, nine hundred dollars;

for the services of expert appraisers in the valuation of securities, three thousand five hundred dollars;

for one auditor and assistant actuary at the New York city office at the rate of five thousand dollars per year, two thousand nine hundred and sixteen dollars and sixty-six cents;

seventh grade, eight additional employees, eight thousand dollars;

For five assistant examiners to meet the increased volume of examination work at the New York city office, seven thousand three hundred dollars, or so much thereof as may be necessary.

DEPARTMENT OF LABOR.

The sum of one thousand two hundred and eight dollars and twenty-eight cents (re. $1,208.28), being the unexpended balance of appropriation made by chapter six hundred eighty-three, laws of nineteen hundred six, for salaries of clerks and special agents; the sum of twenty-eight dollars and sixty-seven cents (re. $28.67), being the unexpended balance of appropriation made by the same chapter for the salaries of deputy factory inspectors; the sum of sixty-four dollars and forty-four cents (re. $64.44), being the unexpended balance of appropriation made by the same chapter for the salaries of additional deputy factory inspectors; are hereby reappropriated for printing, including the expense of publishing bulletins.

BUREAU OF MERCANTILE INSPECTION.

For the salaries:

of the mercantile inspector, two thousand dollars ($2,000);

of eight deputy mercantile inspectors, eight thousand dollars ($8,000);

of two employees (one stenographer and one clerk), one thousand eight hundred dollars ($1,800);

for the actual and necessary traveling expenses of the mercantile inspector and deputy mercantile inspectors in the performance of their official duties, two thousand five hundred dollars ($2,500);

for furniture, books, blanks, stationery, messages, postage and transportation of letters, official documents and other

matter sent by express or freight, including boxes or covering for same, and other necessary and incidental office expenses, one thousand two hundred dollars ($1,200); for printing, five hundred dollars ($500), or so much thereof as may be necessary.

STATE COMMISSION IN LUNACY.

The sum of four thousand five hundred sixty dollars and sixty-eight cents (re. $4,560.68), being the unexpended balance of an appropriation made by chapter six hundred eighty-three, laws of nineteen hundred six, for the salaries of the state commissioners in lunacy, is hereby reappropriated for deficiency in the appropriation made by chapter five hundred seventy-seven, laws of nineteen hundred seven, for the deportation of alien and nonresident lunatics to other countries and states and for the transfer of patients from one hospital to another, during the year ending September thirtieth, nineteen hundred eight. Of the above amount the sum of one thousand dollars shall be expended for the deportation of aliens and the transfer of nonresident patients and three thousand five hundred sixty dollars and sixty-eight cents for the transfer of patients from one hospital to another.

The sum of nine hundred dollars and eighty-three cents (re. $900.83), the unexpended balance of the appropriation made by chapter six hundred eighty-three, laws of nineteen hundred six, for clerk hire in the office of the state commission in lunacy, is hereby reappropriated to supply deficiency in the appropriation made by chapter five hundred seventy-seven, laws of nineteen hundred seven, for temporary clerical and expert services in the same department during the year ending September thirtieth, nineteen hundred eight.

For reimbursing the maintenance fund of the Rochester State Hospital the sum of thirteen thousand six hundred eighty-seven dollars and forty-five cents ($13,687.45), being the amount advanced therefrom to maintain the manufacturing departments at the Rochester State Hospital for the period between July first, nineteen hundred seven, and March thirty-first, nineteen hundred eight, is hereby appropriated from the receipts of the manufacturing departments of the same hospital paid into the state treasury pursuant to section thirty-seven of the state finance law.

The sum of three hundred twenty-two thousand nine hundred

seventy dollars and thirty-one cents ($322,970.31), being the board moneys and miscellaneous receipts of the state hospitals during the year ending September thirtieth, nineteen hundred seven, paid into the state treasury pursuant to section thirty-seven of the state finance law, is hereby appropriated and made available to supply deficiencies in maintenance of the state hospitals during the year ending September thirtieth, nineteen hundred eight.

To reimburse the purchasing steward of the Kings Park and Central Islip state hospitals for advances made by him for commutation tickets, eight hundred ninety-four dollars and sixty cents ($894.60).

The unexpended balances of former appropriations are hereby reappropriated for the same purposes, as follows:

* * * * * * * * * *

For the Utica State Hospital, by chapter six hundred eighty-six, laws of nineteen hundred six, for furniture and equipment for nurses' home, one thousand two hundred sixty-one dollars and twenty-two cents (re. $1,261.22).

For the Willard State Hospital, by chapter six hundred eighty-six, laws of nineteen hundred six, for buildings for tubercular insane, ten thousand dollars (re. $10,000).

For the Hudson River State Hospital, by chapter six hundred eighty-six, laws of nineteen hundred six, for improvements to Shone sewage system, one thousand five hundred dollars (re. $1,500); for porch and sun rooms, ward eleven, four hundred sixty-two dollars and forty-five cents (re. $462.45); for sun rooms, wards three and seven, one hundred fifteen dollars and seventeen cents (re. $115.17); for rearrangement of heating system, north wing, one thousand four hundred seventy-nine dollars and fifty cents (re. $1,479.50); for rearrangement of heating system, south wing, two hundred thirty-nine dollars and fifty-nine cents (re. $239.59); for one pumping engine, one thousand nine hundred sixteen dollars and twenty-one cents (re. $1,916.21); for walks, five hundred seventy-one dollars and forty-six cents (re. $571.46).

For the Middletown State Homeopathic Hospital, by chapter six hundred eighty-six, laws of nineteen hundred six, for carriage house and stable, two thousand five hundred dollars (re. $2,500); for cottage for contagious diseases, two thousand five hundred dollars (re. $2,500).

For the Binghamton State Hospital, by chapter six hundred eighty-six, laws of nineteen hundred six, for enlargement of laundry equipment six thousand three hundred sixty-five dollars and eleven cents (re. $6,365.11); for replacing automatic flush tanks with hand control apparatus, nine hundred twenty-one dollars and sixty-six cents (re. $921.66); for repairs and furniture for Park farm cottage, three thousand dollars (re. $3,000); for removal of cow barn, horse barn, piggery, slaughter-house, wagon shed, paint shop, et cetera, to the farm, six hundred forty-five dollars and sixteen cents (re. $645.16); for completion of wall at the river and cement coping, five hundred fifty-eight dollars and ninety-eight cents (re. $558.98); for furniture and equipment for a building for the chronic insane under construction, five thousand twenty-five dollars and twenty-five cents (re. $5,025.25).

For the Rochester State Hospital, by chapter six hundred eighty-six, laws of nineteen hundred and six, for trees, plants and shrubs, three hundred fifty-seven dollars and fifty-eight cents (re. $357.58); for duplicate water pump, one thousand five hundred dollars (re. $1,500).

For the Central Islip State Hospital, by chapter six hundred eighty-six, laws of nineteen hundred and six, for four extensions to serving and wash-rooms, kitchens two and three, one hundred dollars (re. $100); for extension to fifteen verandas, one thousand five hundred seventy-six dollars and sixteen cents (re. $1,576.16); for mortuary, four thousand forty-one dollars and thirty-seven cents (re. $4,041.37); for extension to stable, two thousand four hundred two dollars and eighty-two cents (re. $2,402.82); for group for one hundred tubercular patients, twenty-five thousand dollars (re. $25,000).

For the Kings Park State Hospital, by chapter six hundred eighty-six, laws of nineteen hundred six, for outside lighting, four hundred thirty-seven dollars and fifty-nine cents (re. $437.59).

For the Long Island State Hospital, by chapter six hundred eighty-six laws of nineteen hundred six, for construction, heating, plumbing, lighting and equipment, being one-half the sum estimated to reconstruct and equip such hospital, two hundred twenty-nine thousand six hundred sixty-nine dollars (re. $229,669).

For the Gowanda State Homeopathic Hospital, by chapter six hundred eighty-six, laws of nineteen hundred six, for dam for ice pond, four hundred twenty-one dollars and sixty cents (re. $421.60).

For furniture and equipment of the building for the acute insane now under construction at the Utica State Hospital, ten thousand dollars ($10,000).

For furniture and equipment of the building for the acute insane now under construction at the Binghamton State Hospital, ten thousand dollars ($10,000).

For furniture and equipment of the building for the acute insane now under construction at the Hudson River State Hospital, ten thousand dollars ($10,000).

For furniture and equipment for the addition to the nurses' home now under construction at said hospital, five thousand seven hundred dollars ($5,700).

For the installation of laundry machinery to replace the laundry machinery destroyed by fire in December, nineteen hundred seven, six thousand five hundred seventy-five dollars ($6,575).

For reimbursement of state hospital stewards for expenses incurred by them while acting as assistant treasurers, in payment of premiums on bonds required by the state comptroller during the year ending September thirtieth, nineteen hundred eight, one hundred seventy dollars ($170).

The sum of forty-thousand dollars (re. $40,000), being the estimated surplus of the appropriation made by chapter five hundred seventy-seven, laws of nineteen hundred seven, for the maintenance of the Middletown State Homeopathic Hospital for the year ending September thirtieth, nineteen hundred eight, is hereby reappropriated and made available for the maintenance of the Manhattan State Hospital for the year ending September thirtieth, nineteen hundred eight.

The sum of six thousand two hundred dollars (re. $6,200), an appropriation made by chapter five hundred and sixty-four, laws of nineteen hundred seven, for alternating electric current generator at new colony, Central Islip State Hospital, is hereby reappropriated and made available for the installation of one alternating electric current generator at the north colony, Central Islip State Hospital.

The sum of one hundred thousand dollars (re. $100,000), the unexpended balance of an appropriation made by chapter four hundred seven, laws of nineteen hundred six, for the erection of buildings for the care and treatment of the acute insane at such hospitals as the state commission in lunacy may designate, is herebv reappropriated and made available for the same purpose.

For deficiency in the maintenance fund of the Utica State Hospital the sum of forty-two thousand nine hundred thirty-four dollars and fifty-two cents (re. $42,934.52), being the amount advanced therefrom to maintain the manufacturing departments at the Utica State Hospital since July first, nineteen hundred seven, is hereby appropriated from the receipts of the manufacturing departments of the same hospital, paid into the state treasury pursuant to section thirty-seven of the state finance law since July first, nineteen hundred and seven.

The sum of one thousand two hundred dollars (re. $1,200), being an appropriation made by chapter six hundred eighty-six, laws of nineteen hundred six, for one fifteen horse-power electric motor at the Gowanda State Homeopathic Hospital, is hereby reappropriated and made available for the purchase of two steam and gas engines at the same hospital.

The sum of three hundred and eighty-seven dollars (re. $387), being the balance of an appropriation made by chapter six hundred eighty-six, laws of nineteen hundred six, for new coal trestle at the Central Islip State Hospital, is hereby reappropriated and made available for repairs to the north colony coal trestle at the same hospital.

The sum of two hundred and eighty-two dollars and eighty-five cents ($282.85), being the deficiency in the appropriation of six thousand five hundred dollars ($6,500) provided by chapter six hundred eighty-six, laws of nineteen hundred six, for rewiring of building in the east division, Manhattan State Hospital, is hereby appropriated.

The sum of one thousand eight hundred and thirty-three dollars and thirty-six cents (re. $1,833.36) being the unexpended balance made by chapter six hundred eighty-six, laws of nineteen hundred six, for two new boilers to heat chronic building at the Middletown State Homeopathic Hospital, is hereby reappropriated and made available for boiler feed pump, boiler smoke flue connections and extension in rear of new buildings at the same institution.

NATIONAL GUARD.

For completing the personal records of the volunteers from this state in the war of the rebellion, and for printing and binding the same in book form, twenty thousand dollars ($20,000), or so much thereof as may be necessary.

For services and necessary traveling expenses in prosecuting war claims of the state against the United States, three thousand dollars ($3,000), or so much thereof as may be necessary.

For deficiency in appropriation for salaries of the adjutant-general, assistant adjutants-general, military storekeeper and clerical force, four thousand three hundred thirty-four dollars and ninety-six cents ($4,334.96), or so much thereof as may be necessary.

For deficiency in appropriation for allowances to officers to assist in uniforming and equipping themselves and organizations of the national guard for purpose of defraying necessary military expenses, six thousand three hundred ninety-five dollars sixty cents ($6,395.60), or so much thereof as may be necessary.

For deficiency in appropriation for allowances to officers to assist in uniforming and equipping themselves, and organizations of the naval militia for the purpose of defraying necessary military expense, one hundred six dollars and eighty cents ($106.80), or so much thereof as may be necessary.

For deficiency in appropriation for general expense of the national guard to cover cost of stores supplies, materials of war, military publications and other military equipment required to fully arm, equip and supply the organized militia and to defray expense of field service of such organizations of the national guard as may be placed on duty by the governor, fifty thousand dollars ($50,000), or so much thereof as may be necessary.

For necessary expense of the summer cruise of the naval militia, ten thousand dollars ($10,000), or so much thereof as may be necessary.

For traveling expense and subsistence of officers designated as delegates to the annual convention of the national guard association of the United States, held at Boston, Massachusetts, January thirteenth, fourteenth and fifteenth, nineteen hundred eight, eight hundred fifty dollars ($850), or so much thereof as may be necessary.

For general expenses of the national guard and office of the adjutant-general to reimburse expenditures made in connection

with refund to volunteers Spanish war of amount received from the United States, to October first, nineteen hundred eight, one thousand seven hundred fifty-one dollars and fifty-three cents ($1,751.53), or so much thereof as may be necessary.

For clerical services and expense in connection with payment of refund by United States to volunteers Spanish war, from October first, nineteen hundred eight to October first, nineteen hundred nine, two thousand five hundred dollars ($2,500), or so much thereof as may be necessary.

For the armory commission, for repairs, improvements and betterments of the state arsenal, armories, camp grounds and rifle ranges and throughout the state, and for necessary office and traveling expense of the commission, one hundred twenty thousand dollars ($120,000), or so much thereof as may be necessary.

The sum of twelve thousand one hundred eighty-six dollars and six cents (re. $12,186.06), being the unexpended balance of the sum of three hundred thousand dollars appropriated by chapter six hundred forty-two, laws of nineteen hundred four, providing for the erection of an armory in the city of Rochester for the use of the national guard and naval militia is hereby reappropriated for the purposes specified in and subject to the conditions imposed by said act, and the comptroller is directed to pay the same for the aforesaid purposes out of any money in the treasury not otherwise appropriated on the written request of the armory commission.

NIAGARA RESERVATION.

For the commissioners of the state reservation at Niagara, for repairs to bridges upon the reservation, eight thousand dollars ($8,000), or so much thereof as may be necessary.

LEGISLATIVE PRINTING.

The composition and plates of the messages of the governors, ordered by the governor, pursuant to chapter six hundred eighty-six, laws of nineteen hundred six; for the printing, binding and distributing of two thousand sets of the messages of the governors, to be bound in eleven volumes, pursuant to chapter seven hundred, laws of nineteen hundred five and chapter six hundred eighty-six, laws of nineteen hundred six; for the printing of two thousand five hundred copies of the proceedings of the senate on the death of ex-senator Jacob Worth, ordered by concurrent reso-

lution May fifth, nineteen hundred five; of two thousand five hundred copies of the proceedings of the assembly on the death of Hon. Frederick E. Perham, ordered by concurrent resolution May fifth, nineteen hundred five; of ten thousand copies of the memorial proceedings of the legislature on the death of ex-governor Frank Wayland Higgins, ordered by concurrent resolution May ninth, nineteen hundred seven; of five thousand copies of the proceedings of the assembly relative to the death of and memorial proceedings commemorative of the life and character of Hon. Charles S. Plank, Hon. William J. Donahue, Hon. Mervin C. Stanley and Hon. Jean L. Burnett, ordered by concurrent resolution June twenty-fourth, nineteen hundred seven; of five thousand copies of the report of the joint committee to investigate the subject of highways and also the bills accompanying said report ordered by concurrent resolution February sixth, nineteen hundred eight; of two thousand copies of the majority report of the commission to investigate the Torrens system of land registration, ordered by resolution of the assembly February thirteenth, nineteen hundred eight; of five hundred copies of assembly bill four hundred fifty-nine, ordered by resolution of the assembly February seventeenth, nineteen hundred eight; of two thousand copies of assembly bill eight hundred forty-six, ordered by resolution of the assembly March third, nineteen hundred eight; of thirty thousand copies of the address delivered by Commissioner James S. Whipple before the legislature, ordered by concurrent resolution March fifth, nineteen hundred eight, and of three thousand copies of senate bill nine hundred eleven, ordered by resolution of the senate March twenty-sixth, nineteen hundred eight, are hereby legalized and confirmed, and shall have the same force and effect as if the work therein ordered had been ordered by statute, and shall be paid for at the amount audited by the comptroller, in accordance with the contract rates fixed therefor in the contract for legislative and department printing for the years in which such printing and binding was done, to be paid only upon the filing of proper receipts in full for said items, out of any appropriation made for legislative printing; provided, however, that the memorial volumes herein authorized, and such as were authorized by chapter five hundred seventy-eight of the laws of nineteen hundred seven, shall be paid for at such amount as shall be audited by the comptroller, not to exceed fifty cents per volume.

For the contractor for legislative printing for the year nineteen

hundred seven, for balance due for printing five thousand copies of the report of the commissioners of the state of New York at the Louisiana Purchase Exposition, held at St. Louis in nineteen hundred four, ordered by concurrent resolution April eleventh, nineteen hundred and seven, at the rate of one dollar ($1.00) per copy of said report, twelve hundred seventeen dollars and forty cents ($1,217.40), or so much thereof as may be necessary.

STATE COMMISSION OF PRISONS.

For compensation of the commissioners, and for the actual and necessary traveling expenses of the commissioners and the secretary in the performance of their official duties, and for furniture, books, blanks, printing, stationery, messages, postage and transportation of letters, official documents and other matters sent by express or freight, including boxes or coverings for same, and other necessary and incidental office expenses, two thousand five hundred dollars ($2,500), or so much thereof as may be necessary.

STATE COMMISSION FOR NEW PRISON.

The sum of sixty-seven thousand eight hundred and three dollars and ninety cents (re. $67,803.90), being the unexpended balance of an appropriation made by chapter six hundred seventy of the laws of nineteen hundred six for the purpose of carrying into effect the provisions of said act, is hereby reappropriated for the same purpose.

PRISON DEPARTMENT.

For securing additional instruction in the several state prisons, three thousand dollars ($3,000), or so much thereof as may be necessary, to be expended under the direction of the superintendent of state prisons.

For the salary of one assistant physician at Clinton prison, to October first nineteen hundred eight, seven hundred and fifty dollars ($750).

For providing current literature for the several state prisons, two thousand dollars ($2,000), or so much thereof as may be necessary, to be expended under the direction of the superintendent of state prisons.

For deficiency in appropriation for the support and maintenance of Dannemora State Hospital for insane convicts, for the

fiscal year ending September thirtieth, nineteen hundred eight, ten thousand dollars ($10,000), or so much thereof as may be necessary.

The sum of five hundred dollars (re. $500), being the unexpended balance of appropriation made by chapter three hundred fifty-eight, laws of nineteen hundred six, for heating system for warden's residence at Auburn prison, is hereby reappropriated and made available for installing and extending the heating system of the Auburn prison hospital.

The sum of six hundred dollars (re. $600), being the unexpended balance of appropriation made by chapter three hundred fifty-eight, laws of nineteen hundred six for the reconstruction of the heating apparatus at the State Prison for Women, is hereby reappropriated and made available for repairs to electrical plant and for papering and painting at the State Prison for Women.

The sum of five thousand dollars (re. $5,000), being the unexpended balance of appropriation made by chapter three hundred fifty-eight, laws of nineteen hundred six, for new building for women at Matteawan State Hospital, is hereby reappropriated and made available for the same purpose.

For repairs and equipment of the offices at Auburn prison, five hundred dollars ($500); for office equipment for the offices of the superintendent of state prisons, five hundred dollars ($500), or so much thereof as may be necessary; for reflooring cotton shop building at Clinton prison, and preparing the building to carry an additional story, two thousand dollars ($2,000), or so much thereof as may be necessary, payable from the capital fund of any prison.

Prison Schools.

For the salaries of three head teachers, three thousand six hundred dollars ($3,600).

For school apparatus and supplies, seven hundred dollars ($700).

Board of Parole for State Prisons.

For compensation of the two members other than the superintendent of prisons from the dates of their appointments respectively to October first nineteen hundred eight, at the rate of one thousand five hundred dollars per annum each, three thousand three hundred and seventy-five dollars ($3,375).

For traveling expenses, two thousand dollars ($2,000), or so much thereof as may be necessary.

MAINTENANCE OF CONVICTS.

For deficiency in appropriation for the payment of the accounts rendered by the several penitentiaries of the state for the fiscal year ending September thirtieth, nineteen hundred and seven, for the maintenance of convicts and tramps sentenced to said penitentiaries pursuant to law, forty-two thousand nine hundred and forty-five dollars and twenty-eight cents ($42,945.28), or so much thereof as may be necessary.

COMPENSATION OF SHERIFFS.

For deficiency in appropriation for compensation of sheriffs for the transportation of convicts sentenced to penitentiaries, houses of refuge and reformatories, three thousand dollars ($3,000), or so much thereof as may be necessary.

DEPARTMENT OF PUBLIC BUILDINGS.

For the compensation of the secretary to the trustees of public buildings, one thousand dollars ($1,000).

For painting and other incidental repairs and furnishings necessary to preserve and renew the buildings, premises and property in charge of the superintendent of public buildings, and to be expended under his direction, five thousand dollars ($5,000), or so much thereof as may be necessary.

For additional compensation for the deputy superintendent of public buildings from October first, nineteen hundred seven, to October first, nineteen hundred eight, one thousand dollars ($1,000).

For the installation of one elevator pump in the capitol, to replace damaged pump now in use there, three thousand five hundred dollars ($3,500), or so much thereof as may be necessary.

For equipping with automatic controls the four elevators in the capitol not now so equipped, one thousand three hundred dollars ($1,300), or so much thereof as may be necessary.

For enlarging and improving the post-office facilities on the first floor of the capitol, one thousand dollars ($1,000), or so much thereof as may be necessary.

DEPARTMENT OF PUBLIC WORKS.

For the services of the agent employed by the superintendent of public works on the request of the attorney-general, as provided in section two hundred seventy of the code of civil procedure, in defense of claims against the state on account of the canals, and for disbursements incurred by him, including the payment for such assistants as shall be necessary in the preparation of cases, to be advanced to said agent by the comptroller in such sums as may be approved by him upon such agent filing with the comptroller good and sufficient bond in the penalty of fifteen thousand dollars, for which advances vouchers shall be rendered, twelve thousand dollars ($12,000), or so much thereof as may be necessary, payable from the canal fund.

For the salary and necessary traveling expenses of an engineer to be employed by the superintendent of public works to act in an advisory capacity, ten thousand dollars ($10,000), or so much thereof as may be necessary, to be paid from moneys received from the sale of bonds, pursuant to chapter one hundred forty-seven, laws of nineteen hundred three.

For additional compensation for the deputy superintendent of public works from October first, nineteen hundred seven, to October first, nineteen hundred eight, one thousand dollars ($1,000).

For constructing, repairing and maintaining highways and bridges on the various Indian reservations of the state, twelve thousand dollars ($12,000), or so much thereof as may be necessary.

For office and contingent expenses and for additional clerk hire in the office of the superintendent of public works the sum of two thousand four hundred and seventy-five dollars ($2,475), being the amount expended from the fund appropriated for such purpose for the fiscal year beginning October first, nineteen hundred seven, for erecting partitions in the first floor tower of the capitol, pursuant to plans approved by the trustees of public buildings.

For the contingent expenses of the collectors, clerks and compilers of statistics relating to the trade and tonnage of the canals, three hundred fifty dollars ($350), or so much thereof as may be necessary.

* * * * * * * * * *

For the repair and improvement of the highway known as the state road, between South Colton and Piercefield, in Saint Lawrence county, four thousand dollars ($4,000), or so much thereof as may be necessary.

For the repair and improvement of the state road, known as the North lake road, running from Forestport, Oneida county, to the North Lake reservoir, Herkimer county, the sum of eight thousand dollars ($8,000), or so much thereof as may be necessary.

For the arching over and otherwise improving that portion of the Eighteen Mile creek from East avenue to Pound street in the city of Lockport, to abate nuisance caused by its present unprotected condition, five thousand dollars ($5,000), or so much thereof as may be necessary.

* * * * * * * * * *

For the purpose of repairing and protecting the dam on Beaver river at Stillwater, constructed pursuant to the provisions of chapter six hundred six, laws of eighteen hundred ninety-eight, by removing the bar formed in the channel immediately below the dam, and by constructing a concrete toe or apron to the circular dam together with a fishway on the face of the dam, the sum of five thousand dollars ($5,000), or so much thereof as may be necessary.

Of such bridges over Twitchell creek and the flow of water caused by the state dam at Stillwater on the Beaver river as will restore the Lake Champlain and Carthage highway to usefulness, ten thousand dollars ($10,000), or so much thereof as may be necessary.

* * * * * * * * * *

For removing dead and floating timber and clearing and rendering safe Saranac river and its tributaries between Lake Flower and the State Dam in township Twenty-four, Franklin county, five thousand dollars ($5,000), or so much thereof as may be necessary.

For completing the dyke along the north bank of the Chemung river from near Columbia street, in the city of Elmira, to the western limits of said city and dyking the banks of Hoffman creek in said city from the mouth thereof to a point near Water street, and repairing the dykes on both sides of the Chemung river in said city heretofore built by the state where defective construction shall have rendered repairs necessary, five thousand dollars ($5,000), or so much thereof as may be necessary.

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QUARANTINE.

For the health officer of the port of New York, for the expenses of extraordinary repairs to the boats at Quarantine, eight thousand seven hundred and thirteen dollars ($8,713), or so much thereof as may be necessary, and

For the maintenance of the bacteriological laboratory at the quarantine station and for the immediate determination of the character of suspected cases of epidemic diseases entering the port of New York, six thousand dollars ($6,000), or so much thereof as may be necessary.

PUBLIC SERVICE COMMISSION, SECOND DISTRICT.

For the use of the public service commission of the second district, one hundred sixty-two thousand dollars ($162,000), or so much thereof as may be necessary.

For the abolition of grade crossings pursuant to chapter seven hundred fifty-four of the laws of eighteen hundred ninety-seven and acts amendatory thereof, two hundred fifty thousand dollars ($250,000), or so much thereof as may be necessary.

BOARD OF STATUTORY CONSOLIDATION.

For completing the work of the board, sixteen thousand five hundred dollars ($16,500), out of which the board may employ a chief clerk at not to exceed two hundred dollars per month, three employees at not to exceed one hundred and seventy-five dollars per month each, one employee at not to exceed one hundred and fifty dollars per month, one employee at not to exceed seventy-five dollars per month, and four employees at not to exceed thirty dollars per month, each. Of the balance not so paid for services the board may expend for stationery, messages, postage, transportation of packages, and incidental expenses other than services and the actual and necessary traveling expenses of the board not to exceed one thousand seven hundred and fifty dollars, and apply the remainder to its deficiency for salaries and expenses heretofore incurred upon filing receipts in full from those to whom such salaries shall be paid.

Said board is hereby directed to complete its work and present its final report to the legislature prior to February first, nineteen

hundred nine, and to prepare in official form for introduction all bills reported by it for enactment, and have the same printed by the contractor for legislative printing for the session of nineteen hundred eight in typographical form as reported, as senate and assembly bills, for introduction on the first day of the session of the legislature of nineteen hundred nine, and when so printed and introduced said bills shall not be otherwise printed for the document rooms of the senate and assembly unless otherwise ordered by the legislature of nineteen hundred nine.

STATE WATER SUPPLY COMMISSION.

For continuing the investigations under chapter five hundred sixty-nine, laws of nineteen hundred seven, fifty thousand dollars ($50,000), together with the further sum of twenty-five thousand dollars ($25,000), which is hereby appropriated for the same purpose.

The sum of twenty-five thousand dollars ($25,000), or so much thereof as may be necessary, to be advanced as follows and for the following purposes:

The state water supply commission is directed to determine whether the flow of the Genesee river shall be regulated under the river improvement act, being chapter seven hundred thirty-four of the laws of nineteen hundred four, and the acts amendatory thereof and supplementary thereto, and if they shall determine that the said river shall be regulated under the said act, then the state treasurer is authorized and directed to loan on the certificates of the said commission to be issued as in the said river improvement act provided such portion of the aforesaid twenty-five thousand dollars as may be necessary to enable the said commission to complete the preliminary surveys and carry forward the proceeding for the regulation of the flow of the said river to and including the making of the final order therefor and the submission of the same to the legislature of the state for approval, as provided in section four of said act.

For the deficiency in office rent for the year ending September thirtieth, nineteen hundred eight, three hundred and sixteen dollars and sixty-five cents ($316.65).

For deficiency in office expense account for the year ending September thirtieth, nineteen hundred eight, two hundred dollars ($200).

DEPARTMENT OF WEIGHTS AND MEASURES.

For salaries to October first, nineteen hundred eight:
of the superintendent, five hundred dollars ($500);
sixth grade, two employees, six hundred seventy dollars ($670);
fourth grade, one employee, two hundred and fifty dollars ($250);

For traveling expenses for the superintendent and inspector, two hundred and fifty dollars ($250), or so much thereof as may be necessary.

For printing, stationery, books, messages, telegrams, furniture and other necessary office expenses, one thousand dollars ($1,000), or so much thereof as may be necessary.

For standards and apparatus for use in the state department of weights and measures, two thousand dollars ($2,000).

STATE CHARITABLE INSTITUTIONS.

REFUNDS.

The following sums shall be paid from the money paid into the treasury of the state under section thirty-seven of the state finance law, as added by chapter five hundred eighty, laws of eighteen hundred ninety-nine, and amended by chapter five hundred sixty-one, laws of nineteen hundred seven:

For the New York State School for the Blind at Batavia, two thousand dollars ($2,000); for the Syracuse State Institution for Feeble-Minded Children at Syracuse, fourteen thousand dollars ($14,000); for the New York State Reformatory at Elmira, forty thousand dollars ($40,000); for the Craig Colony for Epileptics at Sonyea, twenty-one thousand dollars ($21,000).

The amount so paid into the state treasury under the provisions of such section on account of clothing furnished to inmates, miscellaneous sales and from other sources, excepting the proceeds of the products of industries and farms, shall be expended for maintenance; the amount so paid from the proceeds of the products of the industries and farms of such institutions shall be expended for the development, maintaining and extending of the agricultural and industrial departments thereof.

STATE INDUSTRIAL SCHOOL.

For the salary of the custodian of the State Industrial School at Rochester, one thousand dollars ($1,000), or so much thereof as may be necessary.

NEW YORK STATE SCHOOL FOR THE BLIND, BATAVIA.

For deficiency in the maintenance for the fiscal year ending September thirtieth, nineteen hundred eight, made necessary by the increase of salaries of employees and additional cost for commodities, three thousand dollars ($3,000).

NEW YORK STATE REFORMATORY, ELMIRA.

For deficiency in maintenance for the fiscal year ending September thirtieth, nineteen hundred eight, made necessary by the increase of salaries of employees, additional cost for commodities and increase in population, five thousand dollars ($5,000).

NEW YORK STATE TRAINING SCHOOL FOR GIRLS, HUDSON.

For deficiency in the maintenance for the fiscal year ending September thirtieth, nineteen hundred eight, made necessary by the increase of salaries of employees and additional cost for commodities, five thousand dollars ($5,000).

NEW YORK STATE CUSTODIAL ASYLUM, NEWARK.

For deficiency in maintenance for the fiscal year ending September thirtieth, nineteen hundred eight, made necessary by the increase of salaries of employees, additional cost for commodities and increase in population, five thousand dollars ($5,000).

ROME CUSTODIAL ASYLUM.

For deficiency in maintenance for the fiscal year ending September thirtieth, nineteen hundred eight, made necessary by the increase of salaries of employees, additional cost of commodities and increased population, ten thousand dollars ($10,000).

NEW YORK STATE SOLDIERS' AND SAILORS' HOME, BATH.

For deficiency in maintenance for the fiscal year ending September thirtieth, nineteen hundred eight, made necessary by the increase of salaries of employees and additional cost for commodities, six thousand dollars ($6,000).

SYRACUSE STATE INSTITUTION FOR FEEBLE-MINDED CHILDREN, SYRACUSE.

For deficiency in the maintenance for the fiscal year ending September thirtieth, nineteen hundred eight, made necessary by the increase in salaries of employees, and additional cost for commodities, eight thousand dollars ($8,000).

NEW YORK STATE HOSPITAL FOR THE TREATMENT OF INCIPIENT PULMONARY TUBERCULOSIS, RAY BROOK.

To reimburse the maintenance for the fiscal year ending September thirtieth, nineteen hundred eight, for expenditures from it for repairs and equipment, made necessary to increase and improve the facilities of the hospital, one thousand eight hundred and twenty-two dollars and forty-seven cents ($1,822.47).

NEW YORK HOUSE OF REFUGE, RANDALL'S ISLAND.

For deficiency in the maintenance for the fiscal year ending September thirtieth, nineteen hundred eight, made necessary by extraordinary expenditures during the present year, and on account of considerable reduction in the amount contributed and to be contributed for the present year from the educational fund of New York city, six thousand dollars ($6,000).

REAPPROPRIATIONS.

The unexpended balances of former appropriations are hereby reappropriated for the same purposes as follows, namely:

For the Western House of Refuge for Women at Albion, by chapter three hundred seventy-four, laws of nineteen hundred six, for completing cottages five and six and assembly hall, five hundred and fifty-two dollars and four cents (re. $552.04).

For the New York State School for the Blind at Batavia, by chapter three hundred seventy-four, laws of nineteen hundred six, for regrading, et cetera, mains, covering for pipes, one hundred and fifty-four dollars and one cent (re. $154.01); by chapter six hundred eighty-six, laws of nineteen hundred six, for pianos, seventy-five dollars (re. $75).

For the New York State Soldiers and Sailors Home at Bath, by chapter three hundred seventy-four, laws of nineteen hundred six, for bakery building and ovens, seven thousand one hundred fifty-four dollars twenty-four cents (re. $7,154.24); for cement

floors, three hundred dollars (re. $300); for repairs and equipment, seventy-five dollars fifty-five cents (re. $75.55).

For the New York State Reformatory for Women at Bedford, by chapter three hundred seventy-four, laws of nineteen hundred six, for completing cottages five and six and employees' cottages, two thousand one hundred and five dollars and forty-five cents (re. $2,105.45); for new stack and repairing wall, seven hundred and sixty dollars and fifty-two cents (re. $760.52); by chapter six hundred eighty-six, laws of nineteen hundred six, for disciplinary building, one hundred and sixteen dollars and forty-eight cents (re. $116.48); for heater and shower bath, one hundred and forty dollars (re. $140).

For the New York State Reformatory at Elmira, by chapter three hundred seventy-four, laws of nineteen hundred six, for completing trade school building, one hundred and forty dollars and ninety-nine cents (re. $140.99); for electric light circuit, three thousand dollars (re. $3,000); by chapter six hundred eighty-six, laws of nineteen hundred six, for electric light and feeder circuit, one hundred thirty-four dollars and two cents (re. $134.02); for traps and valves, five hundred and twenty-three dollars and forty-three cents (re. $523.43); for pipe covering, traps, valves and trench for pipes, one thousand two hundred and thirty-eight dollars and twenty-three cents (re. $1,238.22); for completing and equipping domestic building, one hundred and seventy-three dollars and ninety cents (re. $173.90); for plumbing, one thousand seven hundred and fifty-three dollars and sixty-seven cents (re. $1,753.67); for trade school building, four hundred and thirty-two dollars and forty cents (re. $432.40).

For the New York State Training School for Girls at Hudson, by chapter three hundred seventy-four, laws of nineteen hundred six, for two cottages, water, steam and lighting, forty-four thousand eight hundred and seventy-two dollars and seventy-two cents (re. $44,872.72); for alterations and fire escapes, two thousand eight hundred and fifty dollars (re. $2,850); by chapter six hundred eighty-six, laws of nineteen hundred six, for sewage disposal plant, eight hundred and seventy dollars and forty-eight cents (re. $870.48).

For the state agricultural and industrial school at Industry, by chapter ninety-one, laws of nineteen hundred six, for completing sixteen cottages and sixteen barns, and perfecting the plumbing in the same, one thousand five hundred and sixty-eight dol-

lars and two cents (re. $1,568.02); by chapter three hundred seventy-four, laws of nineteen hundred six, for chapels, sixteen thousand seven hundred and ninety-seven dollars and fifty cents (re. $16,797.50); for water supply, four hundred and ninety-four dollars and ninety-five cents (re. $494.95); for sewage disposal, eight thousand nine hundred and fifty-seven dollars and eighty-eight cents (re. $8,957.88); for fencing, three thousand six hundred and four dollars and ninety cents (re. $3,604.90); for moving greenhouses, one thousand dollars (re. $1,000); for moving organ, one thousand dollars (re. $1,000); for ovens and equipment for bakery building, five hundred and thirty-eight dollars and thirty-nine cents (re. $538.39); for roads, seven hundred and fifty-three dollars and thirty-one cents (re. $752.31); for sixteen cottages and sixteen barns, three hundred and four dollars and eighty-seven cents (re. $304.87).

For the Thomas Indian school at Iroquois, by chapter three hundred seventy-four, laws of nineteen hundred six, for additional radiation, seventy-five dollars and twenty-one cents (re. $75.21); for pipe covering, ninety-five dollars and twenty-six cents (re. $95.26); for feeder cables, fifty dollars (re. $50).

For the Eastern New York Reformatory at Napanoch, by chapter three hundred fifty-eight, laws of nineteen hundred six, for heating system, trade school and shop building, two thousand four hundred dollars (re. $2,400); for plumbing system, trade school and shop building, one thousand eight hundred dollars (re. $1,800); for lighting system, trade school and shop building, two thousand six hundred dollars (re. $2,600); for further construction of yard wall, four hundred and twenty-one dollars and six cents (re. $421.06).

For the New York State Custodial Asylum at Newark, by chapter three hundred seventy-four, laws of nineteen hundred six, for fire escapes, cottages H. and I., one thousand two hundred dollars (re. $1,200).

For the New York State Women's Relief Corps Home at Oxford, by chapter three hundred seventy-four, laws of nineteen hundred six, grading and tree planting, three hundred and thirty-one dollars and sixty cents (re. $331.60).

For the New York State Hospital for the Treatment of Incipient Pulmonary Tuberculosis at Ray Brook, by chapter three hundred seventy-four, laws of nineteen hundred six, for preparation of land for crops, one hundred thirty dollars and seven cents

(re. $120.07); for hog pen, six hundred and fifty dollars (re. $650).

For the Rome State Custodial Asylum at Rome, by chapter three hundred seventy-four, laws nineteen hundred six, for employees' building, twenty-eight thousand seven hundred and sixty-five dollars and twenty-three cents (re. $28,765.23); for sewage disposal plant, two thousand dollars (re. $2,000); by chapter six hundred eighty-six, laws of nineteen hundred six, for wiring cottages C., D. and E., two hundred and fifteen dollars and forty-five cents ($215.45); for fruit and shade trees, three hundred and thirty-eight dollars and sixty-nine cents (re. $338.69); for ice pond, one hundred and eight dollars and sixty-six cents (re. $108.66); for dormitory buildings and equipment, two hundred and ninety-one dollars and ninety-two cents (re. $291.92).

For Craig Colony for Epileptics at Sonyea, by chapter three hundred seventy-four, laws of nineteen hundred six, for service building women's group, eleven thousand nine hundred and sixty-one dollars and thirty-one cents (re. $11,961.31); for building for storage, et cetera, three hundred and sixty dollars and twenty-seven cents (re. $360.27); for furnishings, one thousand and eighty-five dollars and twenty-two cents (re. $1,085.22); for electric lighting and telephone wires, eight hundred and eighty-two dollars and forty-two cents (re. $882.42); for outside plumbing, eight hundred eighty-five dollars (re. $885); for outside lighting, five hundred forty-eight dollars (re. $548).

For the New York State Hospital for the Care of Crippled and Deformed Children at West Haverstraw, by chapter three hundred seventy-four, laws of nineteen hundred six, for repairs and equipment, six hundred thirty dollars four cents (re. $630.04).

The following unexpended balances of former appropriations are hereby reappropriated for the purposes stated as follows, namely:

For the Western House of Refuge for Women at Albion, by chapter three hundred seventy-four, laws of nineteen hundred six, for changing old assembly hall and equipment, one thousand dollars (re. $1,000), is reappropriated for the equipment of the farm.

For the New York State Soldiers and Sailors' Home at Bath, by chapter five hundred seventy-one, laws of nineteen hundred seven, for improvements in the engineering department, one thousand

five hundred eighty dollars (re. $1,580), is reappropriated for improvements in the engineering department and additional hot water facilities in barracks.

For the state agricultural and industrial school at Industry, by chapter five hundred seventy-one, laws of nineteen hundred seven, for boiler house, power plant and removal of available machinery from the city school, twenty-five thousand dollars (re. $25,000), is reappropriated for electric power and light wiring and feeder cable.

For the Thomas Indian School at Iroquois, by chapter five hundred seventy-one, laws of nineteen hundred seven, for gas well, two thousand dollars (re. $2,000), is reappropriated for duplicate electric unit for lighting.

For the Eastern New York Reformatory at Napanoch, by chapter three hundred fifty-eight, laws of nineteen hundred six, for lighting system, two thousand six hundred dollars (re. $2,600), is reappropriated for general electric wiring.

For the New York State Hospital for the Care of Crippled and Deformed Children at West Haverstraw, by chapter five hundred seventy-one, laws of nineteen hundred seven, for fresh air pavilion, five thousand dollars (re. $5,000), is reappropriated for grading, building switch to connect institution grounds with Erie railroad and for draining swamp.

MISCELLANEOUS.

For rebuilding a dormitory for the employees at the Northern New York Deaf-Mute Institute at Malone, five thousand dollars ($5,000), or so much thereof as may be necessary.

For the salary of the superintendent of Onondaga salt springs, as provided by chapter twenty-seven, laws of eighteen hundred ninety-eight, one thousand five hundred dollars ($1,500).

For the salary of the caretaker of the state reservation at Stony Point, for water rent, and for the care and maintenance of and repairs and improvements to the buildings and grounds, one thousand dollars ($1,000), or so much thereof as may be necessary.

For the secretary of the state charities building commission for services, five hundred dollars ($500).

For Owen L. Potter, for preparing table of laws amended and repealed by the laws of nineteen hundred eight, which shall be published in the session laws of nineteen hundred eight as a part of the index thereof, three hundred dollars ($300).

For David B. Hill, for services rendered and expenses incurred as counsel for the state in defence of the action brought by the Consolidated Gas Company against the attorney-general in relation to the eighty-cent gas controversy, seven thousand five hundred eighty-eight dollars ($7,588), payable upon a verified statement of such services and expenses to be audited by the comptroller.

For Alfred R. Page, for services rendered and expenses incurred as counsel for the state in defence of the action brought by the Consolidated Gas Company against the attorney-general in relation to the eighty-cent gas controversy, ten thousand dollars ($10,000), payable upon a verified statement of such services and expenses to be audited by the comptroller.

For the lieutenant-governor for extra stenographic and clerical services, one thousand dollars ($1,000), or so much thereof as may be necessary.

For the speaker of the assembly, for extra stenographic and clerical services, one thousand dollars ($1,000), or so much thereof as may be necessary.

For Archie E. Baxter, clerk of the assembly of nineteen hundred seven, for services and disbursements for compiling indices of session laws to date under and pursuant to a resolution of the assembly, one thousand five hundred dollars ($1,500), or so much thereof as may be necessary.

For John J. Farley, for stenographic services, two hundred and thirty-six dollars and fifty cents ($236.50), or so much thereof as may be necessary, services being rendered for the public service commission of the second district in the matter of the South Shore Traction Company, to be audited by the chairman of the public service commission of the second district.

For Ella Groat Dunwell, widow of the late James H. Dunwell, justice of the supreme court for the seventh judicial district, who died May twenty-second, nineteen hundred seven, four thousand three hundred seventy-four dollars twenty cents ($4,374.20), being the amount of the annual compensation of said justice for the calendar year nineteen hundred seven which would have been earned by him had he continued to live until the close of that year and had served as such justice.

For Eva T. Abbott, widow of the late George B. Abbott, justice of the supreme court for the second judicial district, who died February tenth, nineteen hundred eight, six thousand three

hundred and eighty dollars ($6,380), being the amount of the annual compensation unpaid of said justice for the calendar year nineteen hundred eight, which would have been earned by him had he continued to live until the close of that year and had served as such justice.

For Anna E. Franchot, widow of the Hon. Stanislaus P. Franchot, for the balance of his salary for the calendar year, nine hundred dollars ($900).

For expenses of removal of remains of former governor George Clinton from Washington, and the suitable interment of same at Kingston, five hundred dollars ($500), or so much thereof as may be necessary, to be expended under the direction of the committee to celebrate the two hundred and fiftieth anniversary of the settlement of Kingston, New York, on May thirtieth, thirty-first and June first, nineteen hundred eight.

For maintenance, repairs and improvements of the Saratoga monument at Schuylerville, to be expended under the supervision of the comptroller, pursuant to chapter five hundred fifty-five, laws of nineteen hundred five, the sum of one thousand five hundred dollars ($1,500), or so much thereof as may be necessary.

For the salary of the superintendent and caretakers at Watkins Glen, two thousand dollars ($2,000).

For repairs at Watkins Glen as follows: For rock excavation, concrete, railings and general repair, ten thousand dollars ($10,000); for stairs and bridges, four thousand eight hundred fifty dollars ($4,850); for shelter pavilion at main entrance, three thousand five hundred dollars ($3,500); for designs, plans, photographs and oversight of construction, one thousand seven hundred twenty-five dollars ($1,725); for removing old buildings, two hundred fifty dollars ($250).

For printing, stationery, traveling and contingent expenses, five hundred dollars ($500); or so much of said amounts as may be necessary.

For the expenses of the commissioners for the promotion of uniformity of legislation in the United States, two thousand five hundred dollars ($2,500), or so much thereof as may be necessary.

For expenses of the New York state commission to investigate the Torrens system of registering land titles, one thousand five

hundred and eighty dollars and fifty-six cents ($1,580.56), or so much thereof as may be necessary.

For the New York School of Agriculture at Saint Lawrence University, for the construction and equipment of a dairy building, thirty thousand dollars ($30,000), or so much thereof as may be necessary.

The sum of forty-five thousand three hundred and seventy-three dollars and eighty cents (re. $45,373.80), being the unexpended balance of an appropriation made by chapter six hundred eighty-two, laws of nineteen hundred six, for the purpose of constructing and equipping a suitable building for a state school of agriculture at Saint Lawrence University, upon the ground of such university, at Canton, New York, is hereby reappropriated for the same purpose and for the purchase of additional land for the use of said state school of agriculture.

For the New York State College of Agriculture at Cornell University, to build and equip glass-houses to provide for work in horticulture, entomology, nature-study, soils, and other departments, thirty thousand dollars ($30,000), or so much thereof as may be necessary; and for the promotion of extension work on the farms and with the farmers of the state, ten thousand dollars ($10,000), or so much thereof as may be necessary.

For paying the contractor for the construction of the New York State Agricultural College at Cornell University, pursuant to chapter six hundred fifty-five, laws of nineteen hundred four, seven thousand dollars ($7,000), or so much thereof as may be necessary, to be paid upon the certificate of the state architect.

For the State School of Clay Workings and Ceramics at Alfred University, five hundred dollars ($500), payable from moneys paid by said school into the treasury pursuant to section thirty-seven of the state finance law.

For the Department of New York, Grand Army of the Republic, for incidental office expenses, including postage, printing, telegraph and telephone charges, one thousand five hundred dollars ($1,500), or so much thereof as may be necessary.

For the erection of a suitable monument in the Rockland cemetery, Rockland county, at the grave of General John C. Fremont, to commemorate his services and mark his grave, three thousand dollars ($3,000), or so much thereof as may be necessary, to be expended under the supervision of the New York State Monuments Commission.

For deficiency in the appropriation for the expenses of the commission appointed pursuant to the provisions of chapter three hundred thirty-one, laws of nineteen hundred seven, to select a site for the Eastern New York State Custodial Asylum, three thousand dollars ($3,000), or so much thereof as may be necessary.

For the commissioners of the Palisades inter-state park to reimburse the commission for moneys expended for policing the lands along the Hudson river acquired as a park, ten thousand dollars ($10,000), or so much thereof as may be necessary.

ALASKA–YUKON–PACIFIC EXPOSITION.

For a state exhibit at the Alaska–Yukon–Pacific Exposition to be held at Seattle, Washington, in the year nineteen hundred nine, seventy-five thousand dollars ($75,000), or so much thereof as may be necessary. The temporary president of the senate shall appoint two members of the senate, and the speaker of the assembly three members of the assembly, who together shall constitute a joint committee for the purpose herein provided. Such joint committee shall elect a chairman, who shall be chief executive officer of the committee, who may appoint a secretary, employ an architect and such clerical and other assistance and provide such facilities as he deems necessary within the appropriation hereby made, but no salaries or expenses shall be incurred for a longer period than ninety days after the close of the exposition. Such secretary and employees shall be deemed confidential and may be appointed and employed without regard to any competitive list.

Such chief executive officer shall have charge of the interests of the state and its citizens in the collection and preparation of the exhibits for the state at such exposition, including the planning and construction of a suitable building to be known as the New York state building and furnishing and maintaining the same as a rendezvous for the people of this state and for the display of such exhibits as may be made on behalf of the state, and at the close of such exposition may dispose of such building and the contents thereof with the approval of the committee as may be deemed for the best interests of the state. The members of such committee other than such chief executive officer shall be entitled to their personal expenses during the period said ex-

position shall be open not to exceed one thousand dollars each, payable upon audit of the comptroller upon vouchers approved by such chief executive officer of the committee. The money hereby appropriated shall be paid by the treasurer to the chief executive officer of the committee on the warrant of the comptroller issued from time to time upon requisitions signed by such chief executive officer and vouchers for the expenditure of all such moneys shall be thereafter filed with the comptroller.

Within ninety days after the close of the exposition such chief executive officer shall make a verified report to the comptroller of the disbursements made by him, and return to the state treasury any unexpended balance of money so drawn or which may be received upon the disposition of said buildings and contents; and said committee shall make a report to the legislature next succeeding the close of such exposition. No indebtedness or obligation shall be incurred under this act in excess of any appropriation made, and the committee and such chief executive officer shall from time to time, if requested by the governor, render reports to him of their proceedings respectively.

For deficiency in the appropriation for the expenses of the commission appointed pursuant to the provisions of chapter six hundred sixty-five, laws of nineteen hundred seven, to select a site for the New York State Training School for Boys, two thousand dollars ($2,000), or so much thereof as may be necessary.

For the care, maintenance, repair and improvement of Sir William Johnson mansion and grounds connected therewith, to be paid to the Johnstown Historical Society, one thousand dollars ($1,000), or so much thereof as may be necessary.

HUDSON-FULTON CELEBRATION COMMISSION.

The sum of twelve thousand five hundred dollars (re. $12,500), being the unexpended balance of an appropriation made by chapter three hundred twenty-five of the laws of nineteen hundred six for the Hudson-Fulton celebration commission is hereby reappropriated for the same purpose, and the further sum of one hundred thousand dollars ($100,000), is hereby appropriated and made immediately available for the same purpose, and the further sum of fifty thousand dollars ($50,000), which is hereby appropriated and made available therefor on and after January first, nineteen hundred nine.

LAKE CHAMPLAIN TER-CENTENARY COMMISSION.

For the Lake Champlain ter-centenary commission, thirty-five thousand dollars ($35,000), which shall be available on the first day of October, nineteen hundred eight, and the further sum of fifteen thousand dollars ($15,000), which shall become available on and after January first, nineteen hundred nine.

For the New York monuments commission, for salaries of engineer and secretary and necessary employees, and for such other expenses as may be required for the work of said commission, including actual and necessary traveling and other contingent expenses incurred by said commissioners in the discharge of their duties, and for compensation for their services, as provided by section six of chapter three hundred seventy-one, laws of eighteen hundred ninety-four, and chapter two hundred sixty-nine, laws of eighteen hundred eighty-seven, nine thousand dollars ($9,000), to be paid by the treasurer on the warrant of the comptroller on vouchers approved by the presiding officer of said commission.

For the New York monuments commission, for the preparation, printing with heliographic prints from photographic views, and binding, of one thousand copies of a report of the dedication ceremonies of the statue of Brevet Major-General George Sears Greene, deceased, at Gettysburg, for distribution by said commission to the survivors of the nine New York regiments represented in the "night fight" on Culp's hill, July second, eighteen hundred sixty-three, three thousand dollars ($3,000), or so much thereof as may be necessary, to be paid by the treasurer on the warrant of the comptroller on proper vouchers duly certified by the presiding officer of the commission.

The commissioners are hereby authorized to erect on a site provided for by chapter five hundred and seventy-eight of the laws of nineteen hundred and seven on the battlefield of Antietam in the state of Maryland a monument to the five regiments of cavalry, thirteen batteries of artillery, sixty-seven regiments of infantry, and two regiments of volunteer engineers from the state of New York in the army of the Potomac that took part in the battles in the passes of South Mountain and of Antietam, September fourteenth and seventeenth, eighteen hundred sixty-two, at an expense not to exceed the sum of sixty thousand dollars. And five thousand dollars ($5,000), is hereby appropriated for the proper

carrying out of the provisions of this act, the same to be paid by the treasurer on the warrant of the comptroller on proper vouchers duly certified by the presiding officer of said board of commissioners.

The sum of four thousand five hundred dollars (re. $4,500), being the unexpended balance of an appropriation made by chapter five hundred seventy-eight, laws of nineteen hundred seven, for the erection of a monument to the late President William McKinley at Buffalo, including the claim of George W. Maltby, is hereby reappropriated for extra labor and for other expenses incurred by George W. Maltby, the contractor, for the construction of the McKinley monument, on account of delay on the part of the state in delivering the site to said contractor, said amount to be paid on the approval of the chairman and secretary of the commission appointed for the supervision and erection of said monument, after due audit by the comptroller.

For payment of the judgment recovered against the state in the action of the People of the state of New York ex rel. Frank B. Seeley against Frederick C. Stevens as superintendent of public works of the state of New York, one thousand eight hundred and sixty-one dollars and eighty cents ($1,861.80), or so much thereof as may be necessary, the same to be payable from the canal fund.

For Aimee T. Heins, widow of George L. Heins, late state architect, to reimburse his estate for traveling and other expenses paid by him while holding that office and also in connection with his expenses as a member of the commission for the selection of a site for the New York Training School for Boys, from June twenty-ninth, nineteen hundred three, to February first, nineteen hundred seven, two thousand five hundred and eighty-eight dollars and thirty-eight cents ($2,588.38), or so much thereof as may be necessary.

For deficiency in appropriation for carrying out the purposes of chapter two hundred sixty-one, laws of nineteen hundred seven, providing for an investigation of the condition of the national guard of the state, four thousand six hundred dollars ($4,600), or so much thereof as may be necessary, out of which shall be printed the report and supplemental report of the Audit Company of New York made to the commission.

§ 2. No manager, trustee or other officer of any state, charitable or other institution receiving moneys under this act from the state treasury for maintenance and support shall be interested

in any purchase, sale or contract made by any officer for any of said institutions.

In accounts for repairs or new work not done under contract provided for in this act the name of each workman, the number of days he has been employed, and the rate and amount of wages paid to him shall be given. If contracts are made for repairs or new work, or for supplies, duplicates thereof, with specifications, shall be filed with the comptroller.

Moneys herein appropriated or reappropriated for building or structural work, or for the repair, improvement or furnishing thereof, or for the purchase or improvement of grounds, or for labor, salaries or maintenance shall only be advanced to the proper authorities as the work progresses or the purchase is made and upon bills duly certified, rendered and audited.

§ 3. This act shall take effect immediately.

Chap. 467.

AN ACT to establish a state farm for women, and making an appropriation therefor.

Became a law, May 22, 1908, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. **Establishment of farm.**— The establishment of a state farm for the custody, employment, and outdoor treatment of female delinquents, is hereby authorized. Said farm shall be located in the second, third, sixth or ninth judicial district of the state. The superintendent of prisons, the president of the state commission of prisons, a member of the state board of charities to be designated by the governor, and two women to be appointed by the governor, one of whom shall be a member of the Women's Prison Association of New York City, are hereby constituted a commission to be known as "The Commission on State Farm for Women." It shall be the duty of said commission to select, and on approval of the governor, to purchase a suitable farm for the purposes and uses specified in this act, provided that the deeds therefor shall convey to the state a good, clear and unencumbered title to be approved by the attorney-general. After the

purchase of such farm, the control and management of the institution herein established, shall be vested in the superintendent of state prisons.

§ 2. **Requisites of site.**— Said farm shall consist of an improved tract of fertile and productive land, in a healthful situation, having an abundant supply of wholesome water, with facilities for drainage and sewage disposal.

§ 3. **Buildings for said institution.**— The superintendent of prisons is authorized to construct upon said farm such houses and other structures, in addition to those existing thereon at the time of purchase, necessary for the proper housing of the women committed to this institution, together with an infirmary, workhouses, and buildings for the proper teaching and productive prosecution of trades, industries, horticultural, farm and garden pursuits, all of which structures shall be plain and of moderate cost, and shall have, when completed, a capacity for at least five hundred inmates.

§ 4. **Purpose of said farm.**— The objects of such farm shall be to secure a state institution for the detention and security of women convicted and sentenced as hereinafter provided, giving them such industrial occupation as will tend to improve their general physical, mental and moral welfare; said industrial occupation shall be carried on in the open air as far as practicable.

§ 5. **Officers to be appointed.**— The state superintendent of prisons shall, on the completion of the buildings herein provided for, or upon completion of such buildings as the superintendent shall deem sufficient, appoint a resident physician and warden of said farm, and such other officers, keepers and matrons as may be necessary for the proper management of said institution, and, on approval of the governor, fix their compensation. The superintendent of prisons shall also appoint a woman superintendent of agriculture, who shall have the charge and direction of the farming, gardening and horticultural operations on said premises. Such physician shall be a graduate of at least five years' standing of a duly authorized medical college; and the superintendent of agriculture shall be a graduate of a duly authorized agricultural institution, or have had at least five years' practical experience in agricultural pursuits; all said officers and other persons employed in and about said premises shall be women, except where the nature of the work to be done necessitates the employment of men.

§ 6. **Notification of county officials of completion of farm.**— As soon as the said farm is ready for the reception of inmates, it shall be the duty of the state superintendent of prisons to officially notify the several county clerks of the counties of this state of that fact, and to furnish said county clerks with suitable blanks for the commitment of women to said farm. It shall be the duty of the said several county clerks immediately on the reception of said official notification to transmit a copy thereof with commitment blanks to the several justices of the peace, police justices, and other magistrates and courts of their respective counties.

§ 7. **Sentence to farm.**— Every woman more than thirty years of age at the time of conviction, who on arraignment is convicted of a misdemeanor, or of any offense of a lesser character than a misdemeanor, and who is not insane and who is known to have been convicted at least five times during the two years immediately preceding such arraignment of any offense whatsoever, may be sentenced and committed to the state farm for women whenever the same may be ready for the reception of inmates. Such sentence and commitment shall not be for a definite term, and any such woman so committed may be paroled or discharged at any time after her commitment by the board of parole of state prisons. No such female shall be detained in said institution longer than three years. In determining whether the requisite numerical total of convictions has been reached in the case of the woman arraigned, it is not necessary that the convictions be all for offenses of one kind, but convictions of different kinds shall be added together. Any court or magistrate authorized to commit any woman to said state farm shall, before so committing her, inquire into and for the purpose of the case determine the age of such woman at the time of such commitment, and her age as so determined, shall be stated in the warrant and when the year only is stated it shall be considered as expiring on the day on which the warrant is dated, and the statement of the age of such woman so made in said warrant of commitment shall be conclusive evidence as to the age of said woman in any action to recover damages for her detention or imprisonment under said warrant, and shall be presumptive evidence of the age of such woman in any other inquiry, action or proceeding relating to such detention, and shall further immediately notify the warden of said state farm of such commitment, and cause a record

to be kept of the name, age, birthplace, occupation, previous commitments, and for what offenses, and last place of residence, of all the women so committed by them, together with the particulars of the offense charged. A copy of said record shall be transmitted with the warrant of commitment to the warden of the state farm, who shall enter and keep in a book of records all these and such other facts as are by law required concerning prisoners sent to any state prison. This act is not to affect or apply to persons convicted of offenses which require or may require a sentence to a state prison.

§ 8. **Detention at farm and rearrest of escaped prisoners.**— The state superintendent of prisons shall have power to cause to be detained therein, under such proper rules and regulations as said superintendent shall provide any woman so committed thereto, according to the terms of said sentence and commitment and to cause the rearrest in any county in this state, and return to said state farm of any person who may have escaped therefrom, and in any case of such rearrest and return, to detain her as aforesaid, from the time of such return for a time equal to the unexpired portion of her term at the time of her said escape or conditional discharge. In case of the escape of an inmate from said state farm, any person duly employed by the state superintendent of prisons to convey to said state farm women committed thereto, shall have power to arrest such escaped inmate in any county in this state without a warrant, and forthwith to convey her in the custody of women keepers to said state farm, and any magistrate shall have power to cause any such escaped inmate to be arrested and held in custody until she can be removed to said state farm as in case of her first commitment thereto.

§ 9. **Children of women sentenced to farm.**— In case any woman committed to said state farm shall at the time of such commitment be the mother of a nursing child in her care, and under two years of age, or be pregnant with child, which shall be born after such commitment, such child may accompany its mother and remain in said state farm until such time as in the opinion of the warden and physician said child can properly be removed therefrom and suitably provided for elsewhere.

§ 10. **Occupation of inmates.**— All women committed to the said state farm shall be employed and occupied in out-of-door

work and occupation of a horticultural or agricultural character or dairy work, as far as practicable.

§ 11. **Classification of inmates.**— The superintendent of prisons shall make rules for the classification of inmates and for the management of the institution, and the said board of parole shall make rules and regulations governing their parole and discharge.

§ 12. **Appropriation.**— The sum of one hundred thousand dollars, or so much thereof as may be necessary, is hereby appropriated for the purposes of this act. Out of this sum shall be paid the necessary expenses of the commissioners in selecting the site, the cost of the site, the cost of repairing and constructing the necessary buildings thereon, and other necessary improvements as above provided, and the maintenance of the institution during the fiscal year beginning October first, nineteen hundred and eight.

§ 13. This act shall take effect immediately.

Chap. 468.

AN ACT making appropriations for repairs, renewals, and betterments for the several state prisons, the Matteawan State Hospital for Insane Criminals, and the Dannemora State Hospital for Insane Convicts.

Became a law, May 22, 1908, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The several sums hereinafter named, or so much thereof as may be necessary, are hereby appropriated for the several purposes at the respective institutions hereinafter specified to be expended under the direction of the superintendent of state prisons, namely:

PAYABLE FROM THE CAPITAL FUND OF ANY PRISON.

SING SING PRISON.

For coal shed, twelve hundred and fifty dollars ($1,250).

For repairs to steam heating system, seven hundred and fifty dollars ($750).

For one boiler and setting same, twelve hundred and fifty dollars ($1,250).

For furniture, fifteen hundred dollars ($1,500).

AUBURN PRISON.

For isolation cells, twenty thousand dollars ($20,000).

For painting cell blocks and cells, three thousand dollars ($3,000).

For concrete floor in mess hall and vegetable kitchen, six hundred dollars ($600).

For large windows in south cell hall, four thousand dollars ($4,000).

For individual compartments in bath houses, fifteen hundred dollars ($1,500).

For cellar under kitchen, six hundred dollars ($600).

For railroad track into prison enclosure and right of way, fourteen thousand dollars ($14,000).

STATE PRISON FOR WOMEN.

For fencing garden, five hundred dollars ($500).

For painting interior, four hundred dollars ($400).

For new floor in hospital, two hundred dollars ($200).

CLINTON PRISON.

For isolation cells, twenty thousand dollars ($20,000).

For kitchen and exercise court, five thousand five hundred dollars ($5,500).

For extension of yard wall, three thousand dollars ($3,000).

For repairing yard wall, five hundred dollars ($500).

For hospital equipment, two hundred dollars ($200).

For barn, two thousand dollars ($2,000).

For piggery, five hundred dollars ($500).

For farm house, five hundred dollars ($500).

For cows, two thousand dollars ($2,000).

For pigs, three hundred dollars ($300).

For dairy equipment, two hundred dollars ($200).

PAYABLE FROM THE GENERAL FUND.

MATTEAWAN STATE HOSPITAL FOR INSANE CRIMINALS.

For plumbing renewals, one thousand seven hundred dollars ($1,700).

For cow barn, two thousand dollars ($2,000).

For repairs to road, seven hundred and fifty dollars ($750).

For machine shop, one thousand eight hundred dollars ($1,800).

For construction first story block B, women's building, twelve thousand dollars ($12,000).

For two cooking kettles, six hundred dollars ($600).

For additional farm lands, fifteen thousand dollars ($15,000).

DANNEMORA STATE HOSPITAL FOR INSANE CONVICTS.

For foundation and iron work for infirmary wing, fifteen thousand dollars ($15,000).

For stone to be dressed by prisoners and for guarding prisoners so employed, and for tools, three thousand five hundred dollars ($3,500).

For grading, two thousand dollars ($2,000).

For sidewalks, five hundred dollars ($500).

For one boiler and setting same, four thousand dollars ($4,000).

For extension of heating system, twelve hundred dollars ($1,200).

For library books, two hundred dollars ($200).

§ 2. No part of the several sums appropriated shall be available for any construction unless a contract or contracts shall have first been made for the completion of such construction as the state architect and superintendent of state prisons may decide cannot advantageously be done by convict labor, and the performance of said contract secured by satisfactory bond, approved by the comptroller, or until the state architect certifies to the comptroller that in his judgment the balance of the several items of construction herein provided for can be completed by the use of convict labor within the appropriation therefor.

§ 3. This act shall take effect immediately.

Chap. 469.

AN ACT making appropriations for the state charitable institutions, the New York State School for the Blind, the Elmira Reformatory, and the Eastern New York Reformatory.

Became a law, May 22, 1908, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The several amounts named in this act are hereby appropriated and authorized to be paid for the several purposes hereinafter specified, viz.:

WESTERN HOUSE OF REFUGE FOR WOMEN, ALBION.

For industrial building, thirty thousand dollars.

For hospital enlargement, fourteen thousand nine hundred and fifty dollars.

For sewage disposal plant, twelve hundred dollars.

For addition to boiler house and one one-hundred horse-power boiler, buying and setting, eleven thousand dollars.

For new cottage, outside connections, eight thousand four hundred and fifty dollars.

For repairs and equipment, one thousand five hundred dollars.

NEW YORK STATE SCHOOL FOR THE BLIND, BATAVIA.

For steel ceilings, repairs and renewals of electric wires, placing in tubes and conduits, four thousand dollars.

For team of horses, five hundred dollars.

For one piano, three hundred and fifty dollars.

Repairs and equipment including repairs to long barn, fountain and park lake, window sills and frames, three thousand dollars.

NEW YORK STATE SOLDIERS AND SAILORS' HOME, BATH.

For repairs and equipment including twelve-inch sewer from convalescent barracks to sewage disposal plant, manholes and branch connections; fire protection to barracks A, B, C, D, E, F, G, H and I; automatic sprinkler in quartermaster's attic; three-inch cast iron water pipe to furnish better water supply to barracks D, E and F; two-inch cast iron pipe from laundry to sewage disposal plant; removing old tubs in main bathroom and installing new enameled rolled rim tubs; concrete floor in cow barn, and additional appropriation for concrete floor in dishwashing room at mess hall, twelve thousand eight hundred dollars.

For a new hog house with concrete floor and foundation and concrete platform with necessary equipment, boilers, troughs, et cetera, three thousand dollars.

NEW YORK STATE REFORMATORY FOR WOMEN, BEDFORD.

For new cottage for inmates, thirty thousand dollars.

For additional appropriation to construct industrial building, seven thousand five hundred dollars.

For equipping boilers with forced draft system, one thousand five hundred dollars.

For grading, top dressing and seeding new campus, one thousand five hundred dollars.

For repairs and equipment including remodeling of floors, changing present school rooms into officers' bedrooms, and placing concrete floors in new addition to boiler house, two thousand dollars.

NEW YORK STATE REFORMATORY, ELMIRA.

For equipping boilers with forced draft system, four thousand dollars.

For repairs and equipment, six thousand dollars.

NEW YORK STATE TRAINING SCHOOL FOR GIRLS, HUDSON.

For trunk conduit between boiler house and cottages 5, 6 and 7, ten thousand eight hundred and fifty dollars.

For outside connections, cottages 8, 9, 10, 11 and 12, eight thousand eight hundred and twenty-five dollars.

For grading walks and roads on east plateau, three thousand three hundred and twenty-five dollars.

For completing cottage ten, five hundred dollars.

For repairs and equipment including moving of and repairs to paint and oil storage house, two thousand seven hundred dollars.

STATE AGRICULTURAL AND INDUSTRIAL SCHOOL, INDUSTRY.

For four additional cottages for inmates, thirty-five thousand dollars.

For industrial building, fifteen thousand dollars.

For five cottages for officers and employees, fifteen thousand dollars.

For purchase of Clapp property, eight thousand dollars.

For three cottages, assembly hall, slaughter house, cold storage building, creamery building and grist mill, in addition to the appropriation made therefor by chapter five hundred seventy-one of the laws of nineteen hundred seven, fifteen thousand dollars.

For improving buildings on the Clapp property including steam heat, plumbing and water supply, three thousand five hundred dollars.

For pavilion for contagious diseases, four thousand five hundred dollars.

For furnishings, four thousand five hundred dollars.

For school books, material, cabinets for school and library books in cottages, and portable blackboards, one thousand five hundred dollars.

For material for cement walks, one thousand dollars.

For extending telephone system, one thousand dollars.

For tile for draining wet land, one thousand dollars.

For additional appropriation for completing chapels, administration building, trades and laundry building, superintendent's residence and barn, six thousand five hundred dollars.

For repairs and equipment including painting, three thousand dollars.

THOMAS INDIAN SCHOOL, IROQUOIS.

For repairs and equipment including furniture and furnishings for employees and other cottages, three thousand dollars.

EASTERN NEW YORK REFORMATORY, NAPANOCH.

For bath house, laundry and shops building, fifty thousand dollars.

For walking corridors, conduits and piping, seven thousand dollars.

NEW YORK STATE CUSTODIAL ASYLUM FOR FEEBLE-MINDED WOMEN, NEWARK.

For enlarging present bakery and construction of new oven, five thousand dollars.

For fire pump, water mains and hydrants, and balance of payment of water mains and pipe to village of Newark, (two hundred dollars), two thousand seven hundred dollars.

For intercommunicating telephone system and night watchman's time recording system, one thousand dollars.

For fire escapes on cottages A and D, one thousand dollars.

For additional appropriation for repairs to cottages E and F, four thousand five hundred dollars.

For additional appropriation for sewage disposal, one thousand five hundred dollars.

For additional appropriation for boiler repairs, five hundred dollars.

For repairs and equipment including painting interior of buildings and repairs to Wilder and Stanley houses and barns, three thousand dollars.

NEW YORK STATE WOMAN'S RELIEF CORPS HOME, OXFORD.

For team of horses and surrey, seven hundred fifty dollars.

For care of lawns, grounds, young trees and flower beds, two hundred fifty dollars.

For a new hospital, twenty-five thousand dollars.

For repairs and equipment, one thousand five hundred dollars.

NEW YORK HOUSE OF REFUGE, RANDALL'S ISLAND.

For repairs and equipment including additional new window sash, paint supplies, carpenter work, flooring, lumber, mason supplies, steam and water supplies, shop equipment, gas house, greenhouse, and other necessary repairs and improvements, seven thousand dollars.

NEW YORK STATE HOSPITAL FOR THE TREATMENT OF INCIPIENT PULMONARY TUBERCULOSIS, RAY BROOK.

For cottage for employees, twenty-seven thousand dollars.

For additional direct connected unit in engine room, two thousand four hundred and fifty dollars.

For filter bed and enlargement of septic tank, two thousand dollars.

To increase patient equipment to two hundred, one thousand eight hundred dollars.

For equipment for six additional employees, four hundred dollars.

For grading, one thousand five hundred dollars.

For new water intake, five hundred dollars.

For completing shacks for permanent use including outside connections, four thousand dollars.

For additional porch space, four thousand dollars.

For repairs and equipment including large amount of exterior and interior painting to protect the buildings, and for an elevator hoist in shaft, three thousand eight hundred dollars.

ROME STATE CUSTODIAL ASYLUM, ROME.

For a building to replace old building C, thirty-five thousand dollars.

For fencing, ditching, drainage and sidewalks, one thousand dollars.

For machinery for equipping plumbing and steam fitting repair shop, one thousand dollars.

For repairs and equipment, three thousand five hundred dollars.

CRAIG COLONY FOR EPILEPTICS, SONYEA.

For two buildings for tubercular patients, thirty thousand dollars.

For six-inch cast iron water pipe for greater spring water supply, fire protection, hydrants and fire apparatus, five thousand five hundred dollars.

For grading, cement walks and planting, two thousand five hundred dollars.

For addition to bakery, two thousand dollars.

For medical, scientific books, instruments and appliances, one thousand five hundred dollars.

For furnishings to replace those destroyed by inmates, one thousand dollars.

For repairs and equipment including screens for radiators, steam and hot water pipes to avoid injury, rebuilding stairways, replastering, repairs to roof supports, Sonyea Hall, eight thousand dollars.

For additional appropriation for one and one-fifth miles of stone roadway, comprising the county highway across the estate, five thousand four hundred dollars.

SYRACUSE STATE INSTITUTION FOR FEEBLE-MINDED CHILDREN, SYRACUSE.

For repairs and equipment including exterior painting, new roof on stable, concrete floor in cow barn, and completing the plumbing improvements, four thousand five hundred dollars.

NEW YORK STATE HOSPITAL FOR THE CARE OF CRIPPLED AND DEFORMED CHILDREN, WEST HAVERSTRAW.

For alterations to barn to provide quarters for employees and for furnishings for the same, six thousand five hundred dollars.

For additional appropriation for open air pavilion, one thousand dollars.

For repairs and equipment, one thousand dollars.

§ 2. The work authorized by this act shall be done pursuant to section forty-nine of the state charities law, as amended by chapter four hundred and fifty-seven of the laws of nineteen hundred and five.

§ 3. This act shall take effect immediately.

Chap. 470.

AN ACT making appropriations for construction, additions and improvements at the state hospitals for the insane.

Became a law, May 22, 1908, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The several amounts hereinafter named, or so much thereof as may be necessary, are hereby appropriated for the several purposes at the respective institutions hereinafter specified the same to be expended under the direction of the state commission in lunacy:

UTICA STATE HOSPITAL.

For new laundry building, thirty-six thousand dollars ($36,000); for crushed stone, cement walks and gutters, two thousand one hundred dollars ($2,100); for urns for dining rooms in main hospital, one thousand two hundred sixty dollars ($1,260); for renewal of infirmary plumbing, two thousand four hundred dollars ($2,400); for operating room and equipment in acute hospital, four thousand dollars ($4,000); for furniture, third story nurses home, two thousand dollars ($2,000); for reconstruction of ward four, twenty-five patients, five thousand dollars ($5,000).

WILLARD STATE HOSPITAL.

For ice-making apparatus, two thousand six hundred dollars ($2,600); for new engine and dynamos, eight thousand five hundred dollars ($8,500); for storage building for tools, et cetera, one thousand two hundred fifty dollars ($1,250); for raising roof of boot-room, north wing at the Maples, five hundred dollars ($500); for raising roof of lumber shed at carpenter shop, nine hundred thirty-five dollars ($935); for ambulance, three hundred fifty dollars ($350); for electric motor, eight to ten horse power, to operate machinery at carpenter shop, three hundred dollars ($300); for new floors at the Pines, one thousand dollars ($1,000); for renewals and repairs to heating plant, three thousand five hundred dollars ($3,500).

HUDSON RIVER STATE HOSPITAL.

For new power house, forty thousand dollars ($40,000); for operating pavilion, seven thousand five hundred dollars ($7,500); for finishing third story of Inwood and additional furniture, fifteen thousand dollars ($15,000); for new house for steward, five thousand dollars ($5,000); for additional equipment for laundry, six thousand dollars ($6,000); for fan for main kitchen, four hundred dollars ($400); for new ice house, three thousand five hundred dollars ($3,500); for new furniture for wards, three thousand dollars ($3,000); for day rooms, wards twenty-seven and twenty-eight, five thousand dollars ($5,000); for sun rooms for wards twenty-three and twenty-four, two thousand dollars ($2,000); for addition to kitchen for infirmary, two thousand two hundred dollars ($2,200); for additional boiler capacity, twenty-two thousand dollars ($22,000); for toilet rooms, wards two, six and ten, two thousand dollars ($2,000); for tile floors, toilet rooms, wards four and eight, eight hundred dollars ($800); for library, three thousand dollars ($3,000); for ambulance, three hundred fifty dollars ($350); for stone crusher, one thousand six hundred dollars ($1,600); for repairs to roads and building new roads, one thousand five hundred dollars ($1,500); for walks, two thousand dollars ($2,000); for drainage, one thousand dollars ($1,000); for hair cleaner and renovator, one thousand dollars ($1,000); for connecting acute building with high pressure steam line, eight thousand dollars ($8,000).

MIDDLETOWN STATE HOMEOPATHIC HOSPITAL.

For increasing size of chimney stack, one thousand one hundred twenty-five dollars ($1,125); for additional accommodations for medical staff, thirty-four thousand dollars ($34,000); for day rooms for wards eleven and twelve, seven hundred dollars ($700); for walk and gutter on Monhagen avenue, one thousand two hundred dollars ($1,200); for fence on Monhagen avenue, one thousand dollars ($1,000); for sewing and mending room, two thousand five hundred dollars ($2,500); for day rooms for annexes one and two, fifteen thousand dollars ($15,000); for connecting the nurses home for men and the farmer's house with the steam supply for the new nurses home, one thousand eight hundred dollars ($1,800); for additional lights, two thousand two hundred dollars ($2,200); for additional amount to convert old

stable into an industrial building, one thousand five hundred dollars ($1,500); for steam conduit and piping and feeder cables from boiler house to nurses home, nine thousand dollars ($9,000); for new sewer for main building, two thousand one hundred dollars ($2,100).

BUFFALO STATE HOSPITAL.

For industrial building and storeroom, one thousand dollars ($1,000); for addition to Elmwood building, fifteen thousand dollars ($15,000); for additional verandas, wards three, four, five and six, two thousand seven hundred dollars ($2,700); for sun rooms, ward twenty-four, two thousand two hundred fifty dollars ($2,250); for quarters for steward, four thousand dollars ($4,000); for additional dynamo and engine, three thousand seven hundred fifty dollars ($3,750); for changing steam and exhaust mains, one thousand one hundred dollars ($1,100); for additional switchboard, eight hundred dollars ($800); for stoker for one hundred fifty horse power boiler, one thousand dollars ($1,000); for new water main to outbuildings, one thousand six hundred fifty dollars ($1,650); for cement walks, one thousand three hundred dollars ($1,300); for new veranda roofs, wards nineteen and twenty, six hundred dollars ($600); for new boiler-room roof extension, five thousand dollars ($5,000); for repairing main steam line to main building, eight hundred dollars ($800).

BINGHAMTON STATE HOSPITAL.

For chemical laboratory, two thousand dollars ($2,000); for addition to the Parkhurst cottage for accommodation of twelve additional patients, four thousand five hundred dollars ($4,500); for enlargement of cold storage facilities, three thousand dollars ($3,000); for glass enclosed verandas, west building, two thousand two hundred fifty dollars ($2,250); for glass enclosed verandas, wards five and six, two thousand dollars ($2,000); for farmer's cottage, two thousand five hundred dollars ($2,500); for vegetable storehouse, five thousand dollars ($5,000); for alterations in farmer's cottage to provide for physicians' residence, one thousand five hundred dollars ($1,500); for removal of florist's house, five hundred dollars ($500); for drinking fountains, six hundred dollars ($600); for vitrified pipe for sewer and surface water disposal, eight hundred dollars ($800); for steam road roller, two thousand dollars ($2,000); for teamster's quarters,

seven hundred fifty dollars ($750); for cementing cellar bottom of east building, five hundred fifty dollars ($550); for brick conduit and high pressure steam system for acute building, six thousand five hundred dollars ($6,500); for extension of fire alarm system, six hundred fifteen dollars ($615); for renewal of heating system, main building, six thousand dollars ($6,000); for additional fire protection, three thousand dollars ($3,000).

ST. LAWRENCE STATE HOSPITAL.

For dormitory for employees at Inwood, fifteen thousand dollars ($15,000); for enlargement of two dining rooms, central group, ten thousand dollars ($10,000); for improvements in dairy barn, three thousand two hundred dollars ($3,200); for trees and shrubs, five hundred dollars ($500); for improvements to roads and walks, one thousand dollars ($1,000); for farm fencing, six hundred dollars ($600); for additional renewals to plumbing, one thousand five hundred dollars ($1,500).

ROCHESTER STATE HOSPITAL.

For construction and equipment of a dispensary and chemical laboratory, five thousand seven hundred dollars ($5,700); for alterations to refrigerating plant, three thousand dollars ($3,000); for tile floors for lavatories and kitchens, three thousand dollars ($3,000); for painting interior walls of new buildings, eight thousand five hundred dollars ($8,500); for laundry dryers, two thousand dollars ($2,000); for painting outside wood and metal work, seven thousand five hundred dollars ($7,500); for mortuary and autopsy room, eight thousand dollars ($8,000); for steam line to shops, stable and soap factory, eight thousand four hundred dollars ($8,400); for deafening floors in new buildings, five thousand dollars ($5,000); for greenhouse, three thousand dollars ($3,000); for sun rooms for women's building, seven thousand dollars ($7,000); for sewer and ejector, seven thousand dollars ($7,000); for barns at lake farm, two thousand five hundred dollars ($2,500).

KINGS PARK STATE HOSPITAL.

For new power house, forty-five thousand dollars ($45,000); for sewage disposal, thirty-five thousand dollars ($35,000), of which the sum of thirty thousand dollars ($30,000) appro-

priated by chapter six hundred eighty-six, laws of nineteen hundred six, is hereby reappropriated and made a part; for construction of cement walks, one thousand five hundred dollars ($1,500); for betterment of serving room accommodations at group, including building and equipment, four thousand two hundred dollars ($4,200); for extension of water supply system and overhauling present system, ten thousand five hundred dollars ($10,500); for broken trap rock for main driveway, one thousand four hundred twenty-five dollars ($1,425); for water mains and hose connections for sprinklers for new lawns at nurses' home, three hundred dollars ($300); for painting, inside and outside, five thousand dollars ($5,000); for changing lock system, one thousand four hundred fifty-five dollars ($1,455); for additional appropriation new laundry, five thousand dollars ($5,000); for fire protection, one thousand one hundred dollars ($1,100).

LONG ISLAND STATE HOSPITAL.

For automobile for transferring patients between hospitals, one thousand six hundred dollars ($1,600).

MANHATTAN STATE HOSPITAL.

For additions and changes to electric light plant, two thousand two hundred dollars ($2,200); for road construction, two thousand dollars ($2,000); for area around annex building, two thousand five hundred dollars ($2,500); for furniture, two thousand five hundred dollars ($2,500); for new beds to replace old ones, six thousand dollars ($6,000); for cement sidewalks, one thousand dollars ($1,000); for renewal of steam lines, east building, and men's home, east, nine thousand dollars ($9,000); for window screens, three thousand four hundred dollars ($3,400); for cement for city and coal docks, one thousand five hundred dollars ($1,500); for extension to hennery, one thousand five hundred dollars ($1,500); for carpenter shop, two thousand nine hundred dollars ($2,900); for paint shop, seven hundred dollars ($700); for additional laundry equipment, including mangle, four thousand one hundred dollars ($4,100); for additional accommodations for medical staff, twelve thousand dollars ($12,000); for renovation of cold storage building and addition to capacity, twelve thousand dollars ($12,000).

CENTRAL ISLIP STATE HOSPITAL.

For attendants' home, capacity two hundred, one hundred thousand dollars ($100,000); for two horizontal tubular boilers, one hundred horse power, to replace boilers three and four, north colony power plant, four thousand nine hundred dollars ($4,900); for ten washing machines in laundry, five thousand five hundred dollars ($5,500); for cement walks, one thousand dollars ($1,000); for glass enclosures for verandas, south colony, two thousand one hundred dollars ($2,100); for renewal of flooring, one thousand five hundred dollars ($1,500); for fire house and additional apparatus, four thousand two hundred forty-eight dollars ($4,248); for change in heating system, attendants' home, north colony, two thousand dollars ($2,000); for four fire-escapes, two-story, Kirker-Bender, eight hundred dollars each, three thousand two hundred dollars ($3,200); for new hospital ward, alteration and equipment ward H-five, one thousand two hundred seventy-five dollars ($1,275); for improvements of laundry drying room, six thousand dollars ($6,000); for electric fans for kitchens, four hundred five dollars ($405).

GOWANDA STATE HOMEOPATHIC HOSPITAL.

For cold storage building and storeroom, twenty-five thousand dollars ($25,000); for engine and dynamo, five thousand dollars ($5,000); for walks and drives, one thousand dollars ($1,000); for storage reservoir, ten thousand dollars ($10,000); for water softener for laundry, two thousand dollars ($2,000); for purifying pans for Hoppe's purifier, four hundred fifty dollars ($450); for subway for electric cables from power house to superintendent's residence and staff house, one thousand five hundred dollars ($1,500); for medical supplies and apparatus, five hundred dollars ($500); for guards over porches for wards fifteen and sixteen, six hundred dollars ($600).

GENERAL.

For extraordinary repairs and emergencies at the state hospitals one hundred seventy thousand dollars ($170,000); the further sum of one hundred thousand dollars ($100,000), or so much thereof as may be necessary, is hereby appropriated for miscellaneous repairs and improvements at the state hospitals.

§ 2. The work authorized by this act shall be done pursuant

to section fifty-three of the insanity law and section thirty-eight of the finance law so far as the same are applicable thereto. Where the purpose for which an appropriation is herein made shall have been fully accomplished for a less sum than the amount above specified, any unexpended balance shall be applicable to the completion of the other specific purpose herein provided for, in case that after due advertisement no bid shall have been received for such other specific purpose within the amount herein specifically appropriated therefor.

§ 3. This act shall take effect immediately.

Chap. 471.

AN ACT to amend the forest, fish and game law, generally.

Became a law, May 22, 1908, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Sections thirty-two, eighty-two, eighty-nine, ninety-one, ninety-six, one hundred and six, one hundred and twenty-three, one hundred and fifty-three and one hundred and seventy-four of the forest, fish and game law, are hereby amended to read, respectively, as follows:

§ 32. **Fish and game protected.**— No person shall take or disturb fish, birds or game on any private park or private lands, or trespass thereon for that purpose, after notice as prescribed in this chapter. A person who violates any provision of this article is guilty of a misdemeanor, and shall be subject to exemplary damages in the sum of twenty-five dollars for each offense or trespass to be recovered by the owner of the lands, or hunting and fishing rights thereon, with costs of suit, in addition to the actual damages, all of which may be recovered in the same action. The consent in writing of such owner to hunt or fish on said lands during the open season shall be a defense to a prosecution under this section.

§ 82. **Hares and rabbits.**—The open season for hares and rabbits shall be from October first to November thirtieth, both inclusive, except in Allegany, Cattaraugus, Chautauqua, Clinton, Essex, Franklin, Fulton, Hamilton, Herkimer, Jefferson, Lewis,

Livingston, Onondaga, Otsego, Saratoga, Saint Lawrence, Schoharie, Steuben, Warren, Washington and Wyoming counties where the open season shall be from October first to February fifteenth, both inclusive. Hares and rabbits native in this state shall not be taken, possessed or sold at any other time. Nothing in this section shall prevent the owner or occupant of inclosed or occupied farm lands or their employees from taking hares and rabbits on such owner's or occupant's premises at any time to prevent their injuring property. Hares and rabbits shall not be hunted with ferrets. The possession of ferrets shall be presumptive evidence of their illegal use. There shall be no close season for Belgian hares, jack rabbits or rabbits bred in captivity.

§ 89. **Quail; open season.**—The open season for quail shall be from November first to November thirtieth, both inclusive; they shall not be taken or possessed at any other time, except as provided by sections ninety-two and ninety-three of this chapter. No person shall take more than thirty-six quail in an open season, nor more than six in one day. There shall be no open season for quail in Dutchess, Westchester, Putnam and Rockland counties until nineteen hundred and ten.

§ 91. **Grouse; open season.**—The open season for grouse shall be from October first to November thirtieth, both inclusive; they shall not be taken or possessed at any other time except as provided by section ninety-two of this chapter. No person shall take more than twenty grouse in an open season, nor more than four in one day. There shall be no open season for grouse in the counties of Putnam, Rockland, Steuben and Westchester until nineteen hundred and ten.

§ 96. **Mongolian ring-necked and English or other pheasants.**—There shall be no open season for Mongolian ring-necked, English or other pheasants, nor shall the same be killed or possessed, except in the counties of Fulton, Livingston, Monroe, Ontario, Orleans, Wayne, Suffolk and Dutchess, prior to the year nineteen hundred and ten; provided, however, that in the counties of Livingston, Monroe, Ontario, Orleans and Wayne the cock or male of said pheasants may be taken on Thursdays and Saturdays in the month of October, and possessed during said month of October, but the burden of proof shall be on the possessor to show that the same were legally taken in accordance with the provisions of this section, and the said pheasants shall not be sold or offered for sale at any time, nor shall any person kill, take or possess more than three

of said pheasants in any one year, and it is further provided that pheasants bred or purchased and liberated in Suffolk, Dutchess and Fulton counties, by the game clubs and private owners, may be possessed in Greater New York for consumption but not for sale. Mongolian ring-necked, English or other pheasants may be taken or possessed in the counties of Suffolk and Dutchess from November first to December thirty-first, and in Fulton county, from September sixteenth to November thirtieth, both inclusive. They shall not be taken or possessed at any other time. Any person taking any of said pheasants in pursuance of the provisions of this section shall, except in the counties of Dutchess, Fulton and Suffolk, on or before the thirtieth day of November of the same year, make and verify an affidavit stating the whole number of pheasants taken, the sex of each, and the dates on which each were taken, and the town and county in which taken, and file said affidavit with the county clerk of the county of which he is a resident.

§ 106. **Trout; open season.**—The open season for trout shall be from April sixteenth to August thirty-first, both inclusive, except in the counties of Clinton, Essex, Franklin, Fulton, Hamilton, Lewis, Saratoga, Saint Lawrence, Warren and Washington and in that portion of Herkimer county north of the Mohawk river, where the season shall be from May first to August thirty-first, both inclusive, and except in Allegany, Cattaraugus, Chautauqua, Cortland, Delaware, Livingston and Wyoming counties where the open season shall be from April sixteenth to July fifteenth, both inclusive and except in the Genesee river in the county of Allegany and in Spring brook in the county of Livingston where the open season shall be from April sixteenth to August thirty-first, both inclusive, and in the county of Chenango where the open season shall be from April sixteenth to July thirty-first, both inclusive. Trout shall not be taken or possessed at any other time, nor shall trout taken in any of the waters of the state be sold or offered for sale. Trout less than six inches in length shall not be taken or possessed. This section shall not apply to private hatcheries in sale of trout, or for propagation.

§ 123. **Eel weirs and eel pots.**— Eel weirs the laths of which are not less than one inch apart, may be maintained in waters not inhabited by trout or lake trout, other than the tributaries of the Chemung river in the counties of Steuben and Chemung, the waters of Cayuga county, the Delaware river, the Chenango river in Broome county, and the Susquehanna river, except in Tioga

county, provided there be at low water a clear passage in the said weir not less than ten feet wide for the passage of boats and fish. Eel pots of such form as may be prescribed by rules of the commission may be used in waters not inhabited by trout or lake trout. The use of eel weirs and eel pots except as expressly permitted by law is prohibited.

§ 153. **Spearing, hooking and set lines.**—Suckers, bullheads, eels and dogfish may be speared in the Delaware river in Sullivan and Delaware counties, and in Sandsburg creek, town of Wawarsing, in Ulster county, from the Center street bridge in Ellenville to Port Hixon dam on said stream, from April first to September thirtieth, both inclusive; and Shadow creek and Hayden creek in the town of Springfield, Otsego county, from March first to May first, inclusive; and in the Hyder creek, Fish creek, Mink creek and Herkimer creek in the towns of Richfield and Exeter, inclusive, provided that spearing shall not be allowed hereunder within twenty rods from the point where such creeks empty into Schuyler lake; and in the creeks in Orleans county excepting Sandy creek, Oak Orchard creek and Johnson's creek, between the fifteenth day of March and the thirtieth day of April, inclusive; and in the tributaries of Lake Ontario from the mouth of the Niagara river to the boundary line between Niagara and Orleans counties, suckers, bullheads, eels, dogfish and carp may be speared from March first to May fifteenth, both inclusive; and in the waters of Lake Ontario in the towns of Ellisburg, Henderson, Hounsfield and Brownville in Jefferson county, and in the waters of the towns of Lexington and Prattville in Greene county, at any time. Such fish may be taken from December first to May fifteenth, both inclusive, by hooking, in Oneida lake, Oneida river, Onondaga lake, in the Delaware and Charlotte rivers and their tributary streams in the counties of Delaware and Sullivan, in the Schoharie river and its tributary streams in Schoharie and Greene counties, and in the waters of Cortland, Tioga, Broome, Chenango and Otsego counties. Fish, except lake trout, black bass and pike perch, may be taken through the ice with a hook and line in Canandaigua lake, except during the months of March and April. Any fish, except lake trout, black bass and pike perch, may be taken in said lake by spearing except during the months of April, May and June. Set lines with one end thereof attached to the shore, may be used to take fish in Canandaigua lake and Lake Keuka. The hooks to be baited only with worms.

§ 174. **Plover and other birds.**— The open season for plover, curlew, jacksnipe, wilsons, commonly known as English snipe, yellow legs, kildeer, willett snipe, surf snipe, winter snipe, ringnecks and oxeyes shall be from July sixteenth to December thirty-first, both inclusive. They shall not be taken or possessed at any other time.

§ 2. Such chapter is hereby amended by inserting therein a new section to be section one hundred and seventy-four-a thereof, to read as follows:

§ 174-a. **Robbins and Gardiners islands.**—Quail may be taken on Robbins island as long as it remains the property of the Robbins Island Club, and on Gardiners island from October fifteenth to January thirty-first, both inclusive. Woodcock may be taken on these islands from August first to December thirty-first, both inclusive.

§ 3. This act shall take effect immediately.

Chap. 472.

AN ACT to amend chapter four of the laws of eighteen hundred and ninety-one, entitled "An act to provide rapid transit railways in cities of over one million inhabitants," in regard to the purchase by such cities and the equipment, maintenance and operation of railways for rapid transit purposes.

Became a law, May 22, 1908, with the approval of the Governor. Passed, three-fifths being present.

Accepted by the City.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Chapter four of the laws of eighteen hundred and ninety-one, entitled "An act to provide rapid transit railways in cities of over one million inhabitants," as heretofore amended, is hereby further amended by adding at the end of section thirty-four a new section to be known as section thirty-four-f, and to read as follows:

§ 34-f. The public service commission of the first district, successor of the rapid transit railroad commissioners, may, with the approval of the board of estimate and apportionment, or other

analogous local authority of such city, purchase for such price and upon such terms and conditions as may be agreed upon, and acquire by conveyance or grant to such city, to be delivered to said board, any line or lines of railway already constructed or in process of construction of the character which might be constructed as a rapid transit railway or railways under the provisions of this act, and which in the opinion of the board it is for the interest of the public and the city to acquire for rapid transit purposes. The moneys necessary to be paid for any such railway or railways so purchased, together with all expenses necessarily incurred in connection therewith, shall be raised and paid out of the proceeds of bonds issued and sold as provided in section thirty-seven of this act. Any such railway or railways so acquired shall be deemed to have been constructed for and at the expense of the city within the meaning of this act, and the cost of acquiring the same shall be deemed and considered as the cost of such construction, in like manner as though said railway had been constructed pursuant to the provisions of this act. Unless all the consents to the construction and operation of any such railway or railways so purchased required by article three, section eighteen, of the constitution shall have been obtained prior to such purchase, the board shall proceed to secure such consents as required by section five of this act. As soon as such consents shall have been obtained, the said board for and on behalf of said city may, with the approval of the board of estimate and apportionment or other analogous authority of such city, enter into a contract with any person, firm or corporation for the equipment of any railway purchased as aforesaid at the cost and expense of such contracting person, firm or corporation, and for the maintenance and operation of such railway or railways for a term of years to be specified in said contract not to exceed twenty-five years, with a covenant for one renewal of not to exceed twenty-five years. Every such contract shall contain such terms and conditions as to the rates of fare to be charged and the character of services to be furnished and the rental to be paid, or the terms upon which such railway or railways are to be operated, as the said public service commission of the first district, successor of the board of rapid transit railroad commissioners, shall deem to be best suited to the public interests and as the said board of estimate and apportionment or other analogous body shall approve.

§ 2. Section thirty-seven of the said act as amended by chapter five hundred and thirty-four of the laws of nineteen hundred and seven is hereby amended to read as follows:

§ 37. For the purpose of providing the necessary means for such construction, or equipment, or both, as the case may be, or acquiring by purchase at the public expense, of any such road or roads, including galleries, ways, subways and tunnels for subsurface structures, and the necessary means to pay for lands, property, rights, terms, privileges and easements, whether of owners, abutting owners or others, which shall be acquired by the city for the purposes of the construction or the operation of such road or roads as hereinafter provided, and of meeting the interest on the bonds in this section hereinafter provided for accruing thereon prior to the completion and readiness for operation of the portion of such road or roads, and the galleries, ways, subways and tunnels for subsurface structures, for the purchase, construction, or equipment of which such bonds shall have been respectively issued, the board of estimate and apportionment, or other local authority in said city, in which such road or roads are to be constructed, having power to make appropriations of moneys to be raised by taxation therein, from time to time, and as the same shall be necessary, and upon the requisition of said board of rapid transit railroad commissioners, shall direct the comptroller, or other chief financial officer of said city, and it shall thereupon become his duty, to issue the bonds of said city at such a rate of interest, as the board of commissioners of the sinking fund of said city, if there be such a board, or if there be no such board, then as other local authority directing the issue of such bonds, may prescribe. Said bonds shall provide for the payment of the principal and interest in gold coin of the United States of America. They shall not be sold for less than the par value thereof, and the proceeds of the same shall be paid out and expended for the purposes for which the same are issued, upon vouchers certified by said board of rapid transit railroad commissioners. Said bonds shall be free from all taxation for city and county purposes, and shall be payable at maturity out of the sinking fund for the payment of the city debt, if there be such a sinking fund of said city; but if there be no such sinking fund, then out of a sinking fund to be established and created out of the annual rentals or revenues of said road including galleries, ways, subways, or tunnels for subsurface

structures, as hereinbefore provided. But this provision that the said bonds shall be payable out of such sinking fund shall not diminish or affect the obligation of said city as a debtor upon said bonds, or any other right or remedy of any holder or owner of any such bonds, to collect the principal or interest thereof. The amount of bonds authorized to be issued and sold by this section, shall not exceed the limit of amount which shall be prescribed by the board of estimate and apportionment or such other local authority having power to make appropriations of moneys to be raised by taxation; and no contract for the construction of such road or roads shall be made unless and until such board of estimate and apportionment or such other local authority shall have consented thereto and prescribed a limit to the amount of bonds available for the purposes of this section which shall be sufficient to meet the requirements of such contract in addition to all obligations theretofore incurred and to be satisfied from such bonds. Before finally fixing the terms and conditions of any contract for any of the purposes contained and set forth in this act, the board of rapid transit railroad commissioners of the appropriate city shall set a date or dates for a public hearing upon the proposed terms and conditions thereof, at which citizens shall be entitled to appear and be heard. No such hearing shall be held, however, until notice thereof shall have been published for at least two weeks immediately prior thereto in the City Record, or other official publication of the city, and at least twice in two daily newspapers published in the city, to be designated by the mayor. It shall be the duty of the board of rapid transit railroad commissioners to cause not less than five hundred copies of a draft of the proposed contract to be printed at least two weeks in advance of such hearing. The said notice of such public hearing shall state where copies of such drafts may be obtained upon payment of a fee, to be fixed by said board, but not to exceed one dollar for each such copy. The said board may, after the hearing to be held as above required, alter, modify or amend such draft contract in any manner in its discretion.

§ 3. This act shall take effect immediately.

Chap. 473.

AN ACT providing for the use of the rifle range at Creedmoor, Long Island, as a site for the Long Island state hospital.

Became a law, May 22, 1908, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. **Rifle range at Creedmoor to be used as site for the Long Island state hospital.**— The land and premises situated at Creedmoor, Long Island, the title to which has been acquired for the state under and in pursuance of chapter five hundred and forty of the laws of eighteen hundred and eighty-nine, chapter six hundred and thirty-three of the laws of nineteen hundred and three, and the provisions of the military code, which land and premises, or a part thereof, have been used as a rifle range by the national guard and naval militia of the state, shall, on and after the taking effect of this act, be used as a site for the Long Island state hospital and become subject to the jurisdiction and control of the board of managers of such hospital and the state commission in lunacy, as provided in the insanity law in respect to other property used for the purposes of such hospital. The state commission in lunacy is hereby authorized to provide for the removal of the Long Island state hospital to such lands, and to provide for the erection of suitable buildings thereon pursuant to the provisions of the insanity law for the use of such hospital as appropriations made for such hospital by the legislature shall become available therefor.

§ 2. **Acquisition of buildings on such lands.**— The state commission in lunacy may enter into an agreement with the proper officers of any regiment, squadron or battalion of the national guard or any battalion of the naval militia for the purchase of any buildings erected and maintained on such lands by any such organization, and the amount so agreed upon shall be paid by the state commission in lunacy to each such organization, out of any money appropriated by the legislature and available therefor, in the manner provided by the insanity law. Whenever sufficient appropriation is made for the acquisition of such buildings the state commission in lunacy may, if it is unable to agree as to price to be paid therefor, acquire the same by condemnation proceedings as is provided in the case of other property required for the use and purposes of state hospitals.

§ 3. This act shall take effect immediately.

Chap. 474.

AN ACT to authorize the location, establishment, maintenance and use of certain lands in the towns of Islip and Babylon, county of Suffolk, for a state reservation to be called Fire Island state park.

Became a law, May 22, 1908, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. A state reservation to be known as Fire Island state park is hereby created and established from and out of certain lands now owned in fee by the people of the state of New York, situate, lying and being in the towns of Islip and Babylon, county of Suffolk, which said lands hereinafter more particularly described shall forever be reserved and maintained for the free use of all the people.

§ 2. The said Fire Island state park shall contain and include the lands and premises heretofore conveyed by David S. S. Sammis and Antoinette Sammis, his wife, to the people of the state of New York as appears by deed dated May fourth, eighteen hundred and ninety-three (1893), and recorded in the office of the clerk of the county of Suffolk in liber three hundred and ninety-six of conveyances, page four hundred and seventeen, on the eighth day of May, eighteen hundred and ninety-three (1893), and which said lands and premises are more particularly bounded and described therein as follows, namely:

All that certain tract of land and beach situate on the south side of Long Island in the county of Suffolk and state of New York opposite to and southerly of the east part of the town of Babylon and opposite to and southerly of the town of Islip known and commonly called the Great South beach, the part thereof hereby conveyed being bounded and described as follows, namely: Beginning at the northwest corner of said tract hereby conveyed and at the northeast corner of the lands held by the United States and known as the Fire Island lighthouse property on the Great South bay and running thence south six degrees west twenty-three hundred and thirty-four and one-tenth (2334 1/10) feet along the line of the aforesaid lands of the United States known as the Fire Island lighthouse property to the Atlantic ocean, thence north seventy-eight degrees and thirty-two minutes east along the said Atlantic ocean twenty-nine hundred and thirty-

five and six-tenths (2935 6/10) feet, thence north fourteen degrees and twenty-six minutes west two thousand and fifty-five and eight-tenths (2055 8/10) feet to the Great South bay, thence south eighty-three degrees and five minutes west along the said Great South bay twenty-one hundred and thirty-six (2136) feet to the point or place of beginning, containing within said bounds one hundred and twenty-five (125) acres of land be the same more or less; being the same premises described on map made November, eighteen hundred and ninety-two, by J. P. Jervis, civil engineer, and examined and approved March twenty, eighteen hundred and ninety-three, by Hon. Martin Schenck, engineer and surveyor, and filed in the office of state engineer and surveyor, together with all the rights, easements, claims or demands, land under water and natural or artificial or additions, wharves, piers, tenements and hereditaments thereunto belonging, subject, however, to a lease to the Western Union Telegraph Company of seventy-five (75) feet square and to a lease of the plot of land forty (40) feet front occupied by the so-called Coudert cottage. Also all that other tract, piece or parcel of land lying under the water of Sampawams creek near the Great South bay in the town of Babylon (formerly Huntington), Suffolk county, New York, bounded and described as follows, namely: Beginning at the northeast corner of the land formerly belonging to James H. Carll and Martin Willetts adjoining the south side of a road or highway and running thence south seventy-three and one-half degrees east two hundred (200) feet, thence north sixteen and one-half degrees east fifty (50) feet, thence south seventy-three and one-half degrees east fifty (50) feet, thence south sixteen and one-half degrees west one hundred and thirty (130) feet, thence north seventy-three and one-half degrees west fifty (50) feet, thence north sixteen and one-half degrees east fifty (50) feet, thence north seventy-three and one-half degrees west three hundred and twenty (320) feet to the above shore, thence southward thirty (30) feet to the south side of the road or highway aforesaid, containing within said bounds about sixteen thousand one hundred (16,100) square feet, being the same premises granted by the people of the state of New York October seventeenth, eighteen hundred and sixty-five, by letters patent to James H. Carll and Martin Willetts; all of which aforesaid lands and premises are the same referred to and described in chapter one hundred and eleven of the laws of the state of New York passed March ninth, eighteen hundred and ninety-three (1893).

§ 3. Within thirty (30) days after the passage of this act there shall be appointed by the governor by and with the consent and approval of the senate five (5) commissioners, all of whom shall be residents of the state of New York, and at least three of whom shall be residents of the county of Suffolk, who are hereby appointed and constituted a board of commissioners by the name and style of "The Commissioners of Fire Island State Park." Said commissioners shall hold office for the term of five (5) years from and after the date of the passage of this act, and until others are appointed in their places. No member of said board shall receive any compensation for his services as commissioner, but each commissioner shall be entitled to receive his actual disbursements for his expenses in performing the duties of his office. In case any of the persons so appointed as above neglect or fail to accept such appointment and to undertake the office and duties of such commissioners by written acceptance, addressed and mailed to the governor within twenty (20) days after receipt of due notification thereof, or in case of a vacancy on said board, such vacancy shall be filled forthwith by the governor and the person so appointed shall hold his office for the term of five (5) years from the date of his appointment, and until another shall be appointed in his place. The governor shall at all times have the power to remove for good and sufficient cause shown, any or all of the above commissioners.

§ 4. The said board of commissioners shall hold their first meeting at twelve o'clock noon at the office of the clerk of the town of Islip, county of Suffolk, on the fourth Monday of the month subsequent to that on which this act shall take effect, and within sixty (60) days after due notice given of their appointment. The said commissioners shall at said meeting choose a president of said board who shall be a member thereof, and shall appoint some person to act as the secretary and treasurer of said board, who shall thereupon give a bond to the people of the state of New York, with two or more sufficient sureties to be approved by any judge or justice of a court of record in such sum as the commissioners shall determine, to the effect that he will faithfully perform the duties of his office and account for all moneys coming into his hands by virtue of his office as treasurer. Said bond shall be forthwith filed in the office of the secretary of state. The compensation to be allowed and paid said secretary and treasurer shall be fixed by said commissioners, but such compensation shall not be in excess of the sum of five hundred dollars ($500) in any

one calendar year. Said commissioners shall hold at least two meetings during each calendar year, and such other meetings as may be called by the president or by any two members of the said board of commissioners, and at such time and place within the county of Suffolk as may be designated in and by such notice in writing of said meeting.

§ 5. Said reservation or park shall be under the control and management of the aforesaid commissioners and their successors in office. A majority of said commissioners shall constitute a quorum for the transaction of business. Said commissioners shall have power to lay out, manage, and maintain said reservation and to make and enforce ordinances, by-laws, rules and regulations necessary to effect the purpose thereof, and for the orderly transaction of business not inconsistent with the laws of this state; to fix the prices to be charged for carrying or transporting persons, for the use of bathing, boat and other privileges, within the limits of said reservation, to appoint and employ a superintendent and such other persons as may be needed, one or more of whom, to be designated by the said commissioners, shall have the powers, and may perform the duties of a police constable in criminal cases. Said commissioners shall also have the power to fix the compensation of the persons who may be appointed or employed by them, but no debt or obligation shall be created by said commissioners exceeding the amount of the moneys at the time at their disposal. None of said commissioners, or any other person, shall have power to create any debt, obligation, claim or liability for or on account of said commissioners, except by the express authority of said commissioners conferred at a regularly called and held meeting thereof.

§ 6. The said board of commissioners may sell and cause to be removed from said reservation all structures and materials thereon belonging to the state which in their judgment are not necessary or desirable for park purposes, and may apply the proceeds of such sales toward the payment of the expenses of maintaining such reservation; they shall have the power to repair and lease, for a term not, however, exceeding one (1) year any or all buildings or structures on said reservation; they shall have the power also to lay out, construct and maintain roads and pathways upon, across and over the said reservation, to build, construct, purchase and maintain bath and boat houses, boats, docks, wharves and any other necessary and proper structures or appurtenances, and to operate, manage and control any ferry or ferries running from

said reservation or park to various points on the Great South bay in the said county of Suffolk. They shall also have the power to make and dredge waterways or channels in front of and appurtenant to said reservation.

§ 7. The said by-laws, ordinances, rules and regulations adopted by said commissioners shall within thirty (30) days after adoption be published at least twice in some newspaper published weekly in said county of Suffolk. Any person offending against any of said ordinances, by-laws, rules and regulations shall be deemed guilty of a misdemeanor, and, on conviction, may be punished by a fine not exceeding one hundred dollars ($100) or by imprisonment not exceeding thirty (30) days, or by both such fine and imprisonment.

§ 8. In the month of January of each and every year the said commissioners shall make to the legislature a report of their proceedings, and a statement in detail of all their receipts and expenditures for the preceding calendar year. They shall also submit therewith an estimate of the work necessary to be done, and of the expenses of maintaining the said reservation for the ensuing year, and shall make such recommendations and suggestions as they shall see fit.

§ 9. Upon the requisition of said commissioners and upon a proper voucher or vouchers, certified by said commissioners or by such officer or officers as they may duly designate for that purpose in form to be approved by the comptroller of the state of New York, the said comptroller shall pay over the sum or sums authorized or appropriated by this act and by any subsequent acts affecting said Fire Island state park, and also the amount of any and all expenditures made or incurred by said commission so certified as above provided.

§ 10. The sum of five thousand dollars ($5,000) payable out of any moneys in the state treasury not otherwise appropriated is hereby appropriated subject to the audit of the said comptroller, to carry out the objects, purposes and provisions of this act, and the same shall be payable by the said comptroller to the said commissioners of Fire Island state park.

§ 11. Section five (5) of chapter one hundred and eleven (111) of the laws of eighteen hundred and ninety-three (1893) providing for the sale of said lands and premises hereinabove described and hereby constituted the said Fire Island state park, is hereby repealed.

§ 12. This act shall take effect immediately.

Chap. 475.

AN ACT to amend the railroad law, in relation to consents and percentages.

Became a law, May 19,* 1908, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section ninety-three of chapter five hundred and sixty-five of the laws of eighteen hundred and ninety, entitled "An act in relation to railroads constituting chapter thirty-nine of the general laws," as amended by chapters three hundred and six and six hundred and seventy-six of the laws of eighteen hundred and ninety-two, chapter four hundred and thirty-four of the laws of eighteen hundred and ninety-three and chapter four hundred and ninety-four of the laws of nineteen hundred and one, is hereby amended to read as follows:

§ 93. **Condition upon which consent shall be given; sale of franchise at public auction.**—The consent of the local authorities in any city of the first class must contain the condition that the right, franchise and privilege of using any street, road, highway, avenue, park or public place shall be sold at public auction to the bidder who will agree to give the city the largest percentage per annum of the gross receipts of such corporation, with a bond or undertaking in such form and amount and with such conditions and sureties as may be required and approved by the comptroller or other chief fiscal officer of the city, for the fulfillment of such agreement and for the commencement and completion of its railroad within the time designated by law and for the performance of such additional conditions as the local authorities in their discretion may prescribe. Whenever such consent shall provide for the sale at public auction of the right to construct and operate a branch or extension of an existing railroad, such consent shall provide that but one fare shall be exacted for passage over such branch or extension and over the line of road which shall have applied therefor; and further, that if such right shall be purchased by any corporation other than the applicant, that the gross receipts from joint business shall be divided in the proportion that the length of such extension

* So in original.

or branch so sold shall bear to the entire length of the road whether owned or leased which shall have applied therefor and of such branch or extension, and that if such right shall be purchased by the applicant, the percentage to be paid shall be calculated on such portion of its gross receipts as shall bear the same proportion to the whole value thereof as the length of such extension or branch shall bear to the entire length of its road, whether owned or leased. The bidder to which such right, franchise and privilege may be sold must be a duly incorporated railroad corporation of this state, organized to construct, maintain and operate a street railroad in the city for which such consent may be given; but no such corporation shall be entitled to bid at such sale unless at least five days prior to the day fixed for such sale, or five days prior to the day to which such sale shall have been duly adjourned, the corporation shall have filed with the comptroller or other chief fiscal officer of the city, a bond in writing and under seal, with sufficient sureties, to be approved by such comptroller or officer, conditioned that if such right, franchise and privilege shall be sold to such corporation, to pay to the city where such railroad is situated the sum of fifty thousand dollars as liquidated damages and not by way of penalty in the event of the failure of such bidder to fulfill the terms of sale, comply with the provisions of this article pertinent thereto, and complete and operate its railroad according to the plan or plans and upon the route or routes fixed for its construction within the time hereinafter designated for the construction and completion of its railroad, and also conditioned to pay to the corporation first applying for the consent, if it shall not be the successful bidder, the necessary expenses incurred by such corporation prior to the sale pursuant to the requirements and direction of the local authorities, within twenty days after such sale and upon the certificate of the comptroller or other officer conducting the same as to the sum or amount to be paid. Notice of the time, place and terms of sale, and of the route or routes to be sold, and of the conditions upon which the consent of the local authorities to the construction, operation and extension of such street railroad will be given, must be published by such local authorities for at least three successive weeks, at least three times a week in two daily newspapers of the city to be designated by the mayor. The comptroller or other chief fiscal officer of the city shall attend and conduct

such sale and may adjourn the same from time to time, but not more than four weeks in all, unless further adjournments should, in his discretion, be necessary by reason of the pendency of legal proceedings, and shall cancel any bid if in excess of the gross receipts, leaving in force the highest bid not in excess, or if the bidder shall not have furnished adequate security entitling such bidder to bid, or shall otherwise fail to comply with the terms and conditions of sale, and shall resell the consent and license in the same manner as hereinbefore provided for the first sale. The bidder who may build and operate such railroad shall at all times keep accurate books of account of the business and earnings of such railroad, which books shall at all times be subject to the inspection of the local authorities. In the event of the failure or refusal of the corporation operating or using such railroad to pay the rental or percentages of gross earnings agreed upon, and after notice of not less than sixty days to pay the same, the local authorities interested therein may apply to any court having jurisdiction upon at least twenty days notice to such corporation, and after it shall have had an opportunity to be heard in its defense, for judgment declaring the consent and right to operate and use such railroad forfeited and authorizing the sale again of the same in the manner hereinbefore prescribed, provided, however, that no such resale of any such consent and right heretofore granted shall be authorized except upon the condition that the same shall be subject to all liens and incumbrances existing on said railroads at the time such forfeiture may have been declared. All consents hereafter given by the local authorities, unless it be otherwise provided in such consent or in some renewal thereof may be forfeited at the expiration of two years thereafter. The board of sinking fund commissioners of any city shall have power to reduce, compromise or release any obligation or liability to the mayor, aldermen and commonalty of such city under the provisions of chapter six hundred and forty-two of the laws of eighteen hundred and eighty-six, or of this chapter whenever, in the opinion of such board, such release or compromise shall be just or equitable, or for the public interest, the reason for any such release or compromise to be stated in the recorded proceedings of such board. No lease by any company organized under section two of the railroad law and owning a right, privilege or franchise of using any street, avenue, highway or public

place for railroad purposes, which has heretofore been sold under the provisions of this section, hereafter made to any street surface railroad company which is not subject to the payment of any percentage pursuant to this section, and which is not organized for the purpose of operating a railroad in a city of the first class, shall be valid until the lessee company shall have filed in the office of the secretary of state and in the office of the clerk of the county where its certificate of incorporation is filed, its acceptance in writing and under its corporate seal of the provisions of this section as now amended; and upon such acceptance being filed, the total percentage amount thereafter to be paid annually under this section and under section ninety-five of this act, shall be at the rate of five per centum of the gross receipts derived from the operation of the roads of the lessor and lessee companies considered as one system. The lessee company, at the time of filing its acceptance aforesaid, shall also file in the same offices a bond to the people of the state, executed in duplicate by it and a surety company authorized by law to act as surety on bonds and undertakings, in the penal sum of fifty thousand dollars, and conditioned for the faithful payment annually of the total percentage aforesaid, and such bond shall be deemed to be a full compliance with the condition for a bond or undertaking required by this section to be provided for in the conditions of the consent of the local authorities and shall supersede any such bond or undertaking theretofore given. Whenever it shall be desired to unite two street surface railroad routes at some point not over one-half mile from such respective lines or routes, and establish by the construction of such connection a new route for public travel, and the corporation or corporations owning or using such railroads shall consent to operate such connection as a part of a continuous route for one fare, and it shall appear to the local authorities that such connection cannot be operated as an independent railroad without inconvenience to the public, but that it is to the public advantage that the same should be operated as a continuous line or route with existing railroads, or whenever for the purpose of connecting with any ferry or railroad depot, it shall be desired to construct an extension or branch not more than one-half mile in length, of any street surface railroad corporation, no sale of such franchise shall be made as provided in this section, but any consent of the local authorities for the construction and opera-

tion of such connection, extension or branch shall provide that the corporation or corporations operating such connection, extension or branch shall pay into the treasury of said city annually the percentage provided for extensions or branches in section ninety-five of this chapter, for the purposes, at the times, in the manner and upon the conditions set forth in such section. Nothing herein contained shall be construed as superseding, repealing or modifying any provision of the charter of any city, village or town, nor as modifying or affecting the terms of a certain contract bearing date January first, eighteen hundred and ninety-two, entered into by and between the city of Buffalo and the various street surface railroad corporations therein named in said contract, nor as modifying or affecting the terms of a certain contract bearing date the twenty-fifth day of February, eighteen hundred and ninety, entered into by and between the city of Rochester and the street surface railroad corporation therein named nor as modifying or affecting any contract heretofore entered into between a street surface railroad corporation and any city of the third class, town or village regulating the payment of percentages or paving of streets, and any city of the third class, town or village, is hereby authorized to enter into any such form of contract with any street surface railroad corporation, and any such contract heretofore entered into is hereby ratified and confirmed. The local authorities may, in their discretion, make their consent to depend upon any further conditions respecting other or further security, or deposit, suitable to secure the construction, completion and operation of the railroad within any time not exceeding the period prescribed in this article and respecting the character, quality or motive power of the road to be completed and respecting the grouping of streets, avenues and highways into one route, or into several routes, for the purpose of a single sale of the franchise, right or privilege for all the routes collectively, or of the separate sale for each route or street, as said local authorities may think expedient and respecting the payment of the percentage agreed to be paid at the sale upon all the lines operated by the successful bidder within the city and respecting any matter involved in or affecting the computation of percentage payments and respecting the use of the railroads to be constructed under the consent by any other company and respecting the interchange of traffic and division of fares between the company operating such railroads and any

other company, and respecting the application of any provision herein contained as to carriage of passengers for single fare and the division of gross receipts and the payment of percentages to the line leased or operated under contract by the applicant for an extension, and also respecting any other matter concerning which, in their judgment, further conditions would be for the public interest. Nothing herein contained shall apply to, or affect any grant hereafter made under the provisions of title one, chapter three of chapter three hundred and seventy-eight of the laws of eighteen hundred and ninety-seven and the amendments thereto known as the Greater New York charter.

§ 2. This act shall take effect immediately.

Chap. 476.

AN ACT to amend chapter ninety-four of the laws of eighteen hundred and seventy-seven, entitled "An act to authorize the appointment of a librarian to take charge of the law library in the fifth judicial district located in Utica," in relation to law librarian and assistant librarian.

Became a law, May 23, 1908, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section one of chapter ninety-four of the laws of eighteen hundred and seventy-seven, entitled "An act to authorize the appointment of a librarian to take charge of the law library in the fifth judicial district located in Utica," as amended by chapter fourteen of the laws of eighteen hundred and eighty-seven and chapter thirty-seven of the laws of nineteen hundred and four, is hereby amended to read as follows:

§ 1. A justice of the supreme court residing in the city of Utica, if there be a resident justice in said city, and if not, a justice of the supreme court residing in the county of Oneida, is hereby authorized to appoint from year to year beginning September first, nineteen hundred and eight, a librarian to take charge of the law library in the fifth judicial district, located in the city of Utica, and who shall be paid a salary to be fixed by said judge

not exceeding one thousand dollars per year. The said judge may also appoint an assistant librarian if in his judgment such assistant is necessary, who shall hold office during the pleasure of said judge, and who shall be paid a salary fixed by him not exceeding six hundred dollars per year. Said salaries shall be payable on the certificate of the said justice of the supreme court residing in the city of Utica, if there be such justice, and if not, on the certificate of a justice of the supreme court residing in the fifth judicial district, out of the moneys raised in the county of Oneida for court expenses by the treasurer thereof, upon the presentation of such certificate.

§ 2. This act shall take effect immediately.

Chap. 477.

AN ACT to authorize the supervisor of the town of Hempstead, in the county of Nassau, to execute and deliver a deed to Elbert Valentine, thereby conveying the title of said town in certain lands therein, to cure a defect in a former conveyance.

Became a law, May 23, 1908, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The supervisor of the town of Hempstead, in the county of Nassau, or any successor in his said office, is hereby authorized to execute and deliver to Elbert Valentine or to his heirs or assigns, for a nominal consideration therein expressed, a quit-claim deed, in his name and under his seal, and quoting his official title as supervisor of the town of Hempstead, in the county of Nassau, of the lands hereinafter described, in fee simple, for the purpose of curing a defect in the quantity and description of the lands mentioned in a deed dated the tenth day of July, eighteen hundred and fifty-five, executed by Barnardus Hendrickson and John H. Seaman, for the said town of Hempstead, acting as commissioners under the authority contained in chapter five hundred and five of the laws of eighteen hundred and fifty-five to Benjamin Valentine, which deed was intended to convey the lands hereinafter described but, by an error, included only a portion thereof. The deed herein authorized to be executed shall,

when executed and delivered as aforesaid, constitute the deed of said town of Hempstead and shall operate to convey all the right, title, interest and estate of said town in and to the lands hereinafter described. The premises herein authorized to be conveyed are described as follows: That lot of land, nearly triangular, consisting of about two acres situate in the town of Hempstead in the county of Nassau, bounded as follows: On the west by the New Road to Pen Pond avenue; on the northeast by the first road intersecting the road above mentioned and leading therefrom in a southeasterly direction; on the east by such part, if any, of the east line of the lands described in a deed dated the tenth day of July, eighteen hundred and fifty-five, from Barnardus Hendrickson, and another, commissioners, to Benjamin Valentine, recorded in Queens county clerk's office in liber one hundred and thirty-five of deeds at page two hundred and fifty-nine, as extends northerly to the road last above mentioned; on the south by the north line of the lands described in said deed, now occupied by Elbert Valentine; the lands intended to be conveyed being the same premises now and heretofore successively and continuously occupied by Benjamin Valentine and Elbert Valentine, for upwards of fifty years, by claim of title under said deed.

§ 2. This act shall take effect immediately.

Chap. 478.

AN ACT to amend the county law, in relation to the reports of county indebtedness by the clerks of the boards of supervisors.

Became a law, May 23, 1908, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section fifty-two of chapter six hundred and eighty-six of the laws of eighteen hundred and ninety-two, entitled "An act in relation to counties, constituting chapter eighteen of the general laws," as amended by chapter three hundred and ten of the laws of eighteen hundred and ninety-five, is hereby amended to read as follows:

§ 52. **Report of county indebtedness.**— The clerk shall annually, on or before the second Monday in December, or such other

date, not later than the third Monday in January thereafter, as the board of supervisors of any county shall by resolution thereof determine, transmit to the comptroller by mail, in the form which the comptroller shall prescribe, a certified statement of all the indebtedness of his county, and of each town, city, village and school district therein, and of the aggregate valued amount of real and personal estate in each town or ward, as corrected by the board of supervisors, and it shall be the duty of the person or persons charged with the issue or payment of such indebtedness to transmit a statement of the same to the said clerk annually, on or before the first day of November. The provisions of this section shall also apply to the county of New York.

§ 2. This act shall take effect immediately.

Chap. 479.

AN ACT to amend chapter one hundred and eighty-five of the laws of nineteen hundred and seven, entitled "An act to regulate the taking of deposits by certain persons, firms and corporations," in relation to the application of such act and the bond required to be executed thereunder.

Became a law, May 23, 1908, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section one of chapter one hundred and eighty-five of the laws of nineteen hundred and seven, entitled "An act to regulate the taking of deposits by certain persons, firms and corporations," is hereby amended to read as follows:

§ 1. All corporations, firms and persons now or hereafter engaged within this state in the selling of steamship or railroad tickets for transportation to or from foreign countries, who in conjunction with said business receive money on deposit or carry on the business of receiving deposits of money for the purpose of transmitting the same, or the equivalent thereof, to foreign countries, shall, before entering into said business, or before continuing said business, except as hereinafter provided, make, execute and deliver a bond to the people of the state of New York in the sum

of fifteen thousand dollars, conditioned for the repayment of such deposits and the faithful holding and transmission of any money or the equivalent thereof, which shall be delivered to it or them for transmission to a foreign country. In the case of corporations, firms or persons now engaged in such business, the bond shall be delivered on or before September first, nineteen hundred and eight. If any person, firm, member of firm or corporation engaged or financially interested, in the selling of tickets as aforesaid, is also engaged in, or financially interested in the business of receiving deposits of money as aforesaid, or if any person, firm, member of a firm or corporation engaged, or financially interested, in the business of receiving deposits of money as aforesaid is also engaged, or financially interested, in the selling of tickets as aforesaid, said person, firm, member of a firm or corporation, shall be held to be subject to the provisions of this section under whatever name or by whatever persons said business of selling tickets, or the said business of receiving deposits, is carried on.

§ 2. This act shall take effect immediately.

Chap. 480.

AN ACT to amend the primary election law, relating to primary elections.

Became a law, May 23, 1908, with the approval of the Governor. Passed three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision one of section four of chapter one hundred and seventy-nine of the laws of eighteen hundred and ninety-eight, entitled "An act in relation to enrollment for political parties, primary elections, conventions, and political committees," as amended by chapter four hundred and seventy-three of the laws of eighteen hundred and ninety-nine, chapters two hundred and two and five hundred and six of the laws of nineteen hundred, chapter one hundred and sixty-seven of the laws of nine-

teen hundred and one and chapter five hundred and four of the laws of nineteen hundred and seven, is hereby amended to read as follows:

Subdivision 1. In a year when a president and vice-president of the United States are to be elected, the tenth Tuesday before the day of general elections, and in other years the seventh Tuesday before the day of general election, shall be known as the annual primary day, except in cities containing a population of one million or over, and in such cities in a year when a governor is to be elected, the eighth Tuesday before the day of general election, and in any other year the sixth Tuesday before the day of general election, shall be known as the annual primary day, and in all cities and villages to which this act is applicable each party shall on such day hold primary elections for the following purposes:

First. The election of delegates to all political conventions except conventions made up of delegates who by the rules and regulations of the party are chosen by other conventions and not at primary elections, and conventions called to meet prior to such primary day for the purpose of nominating candidates to be voted for at special elections.

Second. For the nomination of all candidates for public offices to be voted for at the ensuing election who by rule adopted by a party pursuant to section twelve of this act, are to be nominated at a primary election and not at a convention; and for the election of committeemen whose duty it shall be to fill vacancies in such nominations in the cases prescribed by section sixty-six of the election law, and in the manner therein provided so far as the same is applicable thereto.

Third. For the election of all committeemen who are to be chosen at a primary election and not at a convention.

Fourth. For the election of alternates to delegates, in case the rules and regulations of a party shall so provide.

§ 2. This act shall take effect immediately.

Chap. 481.

AN ACT to provide for a department of public instruction in the city of Schenectady.

Became a law, May 23, 1908, with the approval of the Governor. Passed, three-fifths being present.

Accepted by the City.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Department of public instruction established.
2. Appointment of president and superintendent, et cetera.
3. General powers and duties.
4. Superintendent of schools.
5. Powers and duties of superintendent.
6. Appointment of assistant teachers; terms of principals.
7. School buildings, repairs, sale and erection of.
8. Public school moneys.
9. Termination of terms of present commissioners.
10. Laws repealed.

Section 1. **Department of public instruction established.**— A department of public instruction in and for the city of Schenectady is hereby established. There shall be a board of education, composed of five members, to be called commissioners of education, who shall be appointed as hereinafter provided, which board shall be the head of the department of public instruction. They must have been electors of the city for a period of at least five years immediately preceding the date of appointment. Within ten days after the passage of this act, the mayor shall appoint two commissioners to serve until March first, nineteen hundred and nine, and three commissioners to serve until March first, nineteen hundred and ten. In the month of February of each year preceding the expiration of the term of office of any such commissioner, the mayor shall appoint a successor to hold office for a term of two years from and including the first day of March of the year in which he is appointed. In the case of a vacancy in the office of commissioner, the mayor shall fill the vacancy by the appointment of a commissioner for the remainder of the term. The commissioners shall serve without pay.

§ 2. **Appointment of president and superintendent, et cetera.**— The board shall appoint one of its members president, who shall exercise all the powers usually incident to such office. It shall also appoint a suitable person other than a member thereof, superintendent of schools in the city, who shall exercise the powers and discharge the duties hereinafter defined, and shall be allowed such compensation for his services as the board of estimate and apportionment may at any time determine. It shall also appoint from time to time such other employees including teachers and attendance officers as the school system may require, except that the janitors of all the school buildings shall be appointed by the commissioner of public works, and such janitors shall be subject to his immediate direction and control; the amount of their compensation shall be fixed by the board of estimate and apportionment. It has the care, custody and safe-keeping of all school property, real and personal, except as hereinafter provided; and shall make rules and regulations for the government of the schools and its employees except as to janitors and as hereinafter provided; prescribe courses of study and text-books; supply the requisite stationery for the use of indigent pupils; provide the several schools with the necessary school apparatus, maps and music books, the expense thereof to be defrayed out of the school moneys of the city. No member of the board shall be eligible to appointment or employment by the board.

§ 3. **General powers and duties.**— The board has all the powers and is charged with all the duties of commissioners of common schools, and of trustees of the several school districts in this state, under the general statutes relating to common schools, so far as such powers and duties can be made applicable to the schools herein provided for, and are not inconsistent with the provisions of this act and of chapter four hundred and seventy-three of the laws of nineteen hundred and six.

§ 4. **Superintendent of schools.**— The superintendent of schools shall hold office during the pleasure of the board. Any person may prefer charges in writing of incompetency, maladministration or misconduct in office against the superintendent, and thereupon the board shall proceed to hear the charges, and in case the same shall be sustained by the affirmative votes of a majority thereof the superintendent shall be dismissed from his office.

§ 5. **Powers and duties of superintendent.**— The superintendent has power and it is his duty to see that all rules and regula-

tions of the board are complied with by the principals and teachers; to determine the different grades of study which shall be pursued in the various departments of the several schools; to transfer teachers from one school to another, or from one grade to another; to suspend any teacher temporarily for cause, provided, however, that the reasons for such suspension shall be immediately transmitted to the board in writing; to transfer pupils from one school to another; to prescribe rules and regulations for the admission, examination and promotion of pupils; and he shall have charge of the school libraries.

§ 6. **Appointment of assistant teachers; terms of principals.**— All assistant teachers shall be appointed for a probationary period of one year, at the expiration of which term, unless satisfactory evidence of incompetency is submitted by the superintendent, the probationer may be elected by the board. Thereafter such teacher shall hold the position during good behavior and shall be removable only for cause, after a hearing, by the affirmative votes of a majority of the board. All probationary appointments shall be made from the head of a merit list, upon which the names of all eligible candidates for appointment as assistant teachers shall appear in the order of their rank in scholarship and qualifications for teaching; and it shall be the duty of the board to prescribe by rules not inconsistent with the laws of the state the means of determining such rank in scholarship and qualifications. All principals shall hold their positions during good behavior and shall be removable only for cause, after a hearing, by the affirmative votes of at least a majority of the board.

§ 7. **School buildings, repairs, sale and erection of.**— Whenever in the opinion of the commissioner of public works any repairs are needed to the public school buildings in the city, the commissioner of public works shall make such repairs. The board of education shall recommend to the common council, when in its opinion the public interests require, the sale of any schoolhouse, the purchase or lease of any land or building for a schoolhouse, and when authorized thereto by an ordinance of the common council, the board of contract and supply may make such sale, purchase or lease in the manner as provided for by chapter four hundred and seventy-three of the laws of nineteen hundred and six; and it may recommend to the common council the erection of any school building; and when authorized thereto by an ordinance of the common council, the board of contract and sup-

ply may erect such buildings in the manner and upon the conditions prescribed in chapter four hundred and seventy-three of the laws of nineteen hundred and six.

§ 8. **Public school moneys.**—All public money apportioned or appropriated to or for the city, or to or for any of the school districts therein, or for the school libraries, shall be paid by the proper officers to the treasurer, and in the accounts kept by him shall be credited to the department of public instruction and paid out by him upon bills properly allowed and audited in the same manner as obtains in the case of other bills against the city.

§ 9. **Termination of terms of present commissioners.**— Upon the taking effect of this act the rights, duties, powers and terms of office of the commissioners of common schools in office when this act takes effect shall cease and terminate.

§ 10. **Laws repealed.**—All acts or parts of acts, general or special, inconsistent with the provisions of this act are hereby repealed, but such repeal shall not affect any right already existing or accrued, or any liability incurred prior to the passage of this act.

§ 11. This act shall take effect immediately.

Chap. 482.

AN ACT to amend chapter three hundred of the laws of eighteen hundred and forty-nine, entitled "An act concerning the library of the late court of chancery and the supreme court, and for locating and increasing the same," relative to the library of the court of appeals at Syracuse.

Became a law, May 23, 1908, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section three of chapter three hundred of the laws of eighteen hundred and forty-nine, entitled "An act concerning the library of the late court of chancery and the supreme court, and for locating and increasing the same," is hereby amended to read as follows:

§ 3. The regents of the university shall appoint a suitable person to be librarian of the library of the court of appeals, located at the city of Syracuse, who shall receive an annual salary of three thousand dollars, to be paid by the comptroller in

monthly installments, upon the certificate of a justice of the supreme court residing in the city of Syracuse, which said amount shall be levied and assessed by the comptroller, one-half upon the county of Onondaga, and the residue thereof upon the several remaining counties constituting the fifth judicial district, in proportion to the assessed valuation of the real and personal property in said counties. Said librarian shall appoint an assistant librarian and such other assistants as shall be determined by the board of supervisors of said county of Onondaga, who shall be paid by said county of Onondaga a salary or salaries to be fixed by said board of supervisors of said county.

§ 2. Said act is hereby further amended by inserting therein a new section to be known as section five and to read as follows:

§ 5. The said library shall be maintained as a free public library for the use of the people of the state, the supreme court of the fifth judicial district and the local courts of the county of Onondaga and city of Syracuse. Such library shall be kept in the courthouse of Onondaga county and without expense to the state, except for the purchase of books, binding and repair of books.

§ 3. All acts or parts of acts inconsistent with the provisions of this chapter are hereby repealed.

§ 4. This act shall take effect immediately.

Chap. 483.

AN ACT authorizing the city of Lockport to issue bonds for the purpose of acquiring property for a right of way for the Lockport water supply; constructing a sewer in Transit street, from a standpipe on Summit street to Willow street, in said city; constructing a sewer in Wheatfield street, North Tonawanda, New York, and for such other purposes as may become necessary in acquiring and constructing the system of water works, now under contract for construction, for said city.

Became a law, May 23, 1908, with the approval of the Governor. Passed, three-fifths being present.

Accepted by the City.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. During the years nineteen hundred eight and nineteen hundred nine, the common council of the city of Lockport is

hereby authorized, in its discretion, for the purpose of acquiring property for a right of way for the force main to be constructed from the Niagara river to the city of Lockport; constructing a sewer in Transit street, from a standpipe on Summit street, to Willow street in said city; constructing of a sewer in Wheatfield street, North Tonawanda, New York; and for such other purposes as may become necessary in acquiring and constructing the system of water works, now under contract for construction, for said city; to issue bonds from time to time during said years as may be necessary, in the name and upon the credit of the city of Lockport, which said bonds shall be executed by the mayor under the corporate seal of the city and countersigned by the city clerk, for such amounts as may become necessary for said purposes, the total amount of said bonds not to exceed the sum of seventy-five thousand dollars. Said bonds shall bear interest at the rate of not to exceed five per centum per annum, and shall become due and payable at such times and places and shall be of such denomination as the common council may direct, unless otherwise provided by law. If the amount of the bonds issued, together with the then existing indebtedness of the city shall exceed ten per centum of the then assessed valuation of the city of Lockport as shown by the last assessment roll, then the bonds issued hereunder, in excess of such ten per centum, shall be made payable in not to exceed twenty years; and the common council shall provide for their redemption by raising annually a sum which shall produce an amount equal to the sum of the principal and interest on such bonds at their maturity. Said bonds, as issued, shall be sold to the party or parties offering to pay par therefor at the lowest rate of interest, after the same shall have been advertised for not less than ten days by the city treasurer, but in no event shall the bonds be sold at less than par. The moneys received from the sale of said bonds shall be placed by the city treasurer to the credit of the fund known as the "water supply fund," and shall be used for no purpose other than the discharge of the indebtedness incurred under the provisions of this section. All moneys required to pay the interest on and discharge said bonds, as the same from time to time become due, shall be raised by a general tax upon the real and personal estate within said city of Lockport, as the same may from time to time be bounded, in addition to any sum authorized by section two hundred thirty-one of chapter one hundred twenty of the

laws of eighteen hundred eighty-six, entitled "An act to revise the charter of the city of Lockport," and the acts amendatory and supplemental thereto, and in the manner provided by title fourteen of said act.

§ 2. This act shall take effect immediately.

Chap. 484.

AN ACT to amend chapter seven hundred and five of the laws of nineteen hundred and one, entitled "An act to make the office of sheriff of the county of Kings a salaried office and regulating the management of said office," in relation to appointment of deputy sheriffs and other employees.

Became a law, May 23, 1908, with the approval of the Governor. Passed, a majority being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Chapter seven hundred and five of the laws of nineteen hundred and one, entitled "An act to make the office of sheriff of the county of Kings a salaried office and regulating the management of said office," is hereby amended by adding after section ten a new section, to be section eleven thereof, to read as follows:

§ 11. The sheriff of the county of Kings is hereby authorized and empowered to appoint such additional deputy sheriffs and other employees as he shall deem necessary, subject to the approval of the board of estimate and apportionment, and such board of estimate and apportionment shall fix the compensation of the persons so appointed.

§ 2. This act shall take effect immediately.

Chap. 485.

AN ACT to amend section two hundred and fifty-eight of the code of civil procedure, relating to the appointment of stenographers for the supreme court.

Became a law, May 23, 1908, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section two hundred and fifty-eight of the code of civil procedure is hereby amended so as to read as follows:

§ 258. **Stenographers for certain judicial districts.** — In addition to the stenographers appointed under special laws, the justices of the supreme court, or a majority of them, for each judicial district, excepting the first, second, third, fifth, seventh and eighth, shall appoint, and may at pleasure remove, three stenographers. The justices of the supreme court, or a majority of them, for the fifth and seventh judicial districts, respectively, shall appoint, and may at pleasure remove, five stenographers of the supreme court for each of such districts. The justices of the supreme court, or a majority of them, for the third judicial district shall appoint, and may at pleasure remove, four stenographers of the supreme court for such district. The justices of the supreme court for the eighth judicial district shall appoint, and may at pleasure remove, eight stenographers of the supreme court for such district. Each of the stenographers shall attend such special and trial terms of the supreme court in his judicial district as he shall be assigned to attend by the justices of the supreme court, or a majority of them, for such district. Each of such stenographers shall receive an annual salary of three thousand dollars, to be paid by the comptroller of the state in equal quarterly payments, upon the certificate of a justice of the supreme court of the judicial district for which he shall have been appointed.

§ 2. This act shall take effect October first, nineteen hundred and eight.

Chap. 486.

AN ACT to amend an act entitled "An act in relation to agriculture, constituting articles one, two, three, four and five of chapter thirty-three of the general laws," in relation to packages and barrels to be used in the sale of fruit.

Became a law, May 23, 1908, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Article thirteen of the agricultural law, as added thereto by chapter three hundred and ninety-one of the laws of nineteen hundred and four, and as amended by chapter six hundred and eighty-four of the laws of nineteen hundred and seven, is hereby further amended so as to read as follows:

ARTICLE XIII.

Section 185. Evaporated apples.
186. Moisture in evaporated apples.
187. Sale of apples, pears and peaches.
188. Barrels; apples, pears and quinces.

Section 185. No person shall buy for resale, sell, expose or offer for sale as and for evaporated apples any evaporated apples intended to be used for food, or for consumption by any person other than standard evaporated apples.

§ 186. Evaporated apples containing not more than twenty-seven per centum of water or fluids as determined by drying for four hours at the temperature of boiling water shall be considered standard evaporated apples for the purposes of this act.

§ 187. No person or persons shall sell, offer or expose for sale apples, pears or peaches as and for New York state grown apples, pears or peaches if they were not grown or produced within the state of New York; nor shall they brand or label the package or barrel containing such apples, pears or peaches as New York state apples, pears or peaches if they were not grown or produced within the state of New York. Any person or persons packing or repacking or causing apples or pears to be packed or repacked to be sold upon the markets, shall pack or repack or cause them to be packed or repacked in such a manner that each separate

package or barrel shall be packed substantially uniform without intent to deceive the purchaser. Any person, persons or corporation buying from a grower apples or pears which are packed in packages or barrels, marked or labeled with the name of the grower who causes such apples or pears to be repacked in the same packages or barrels or who uses the same packages or barrels for the packing of other fruit or apples or pears shall erase from such package or barrel the name of the grower or packer first or originally placed thereon. But the facing of such package or barrel is not prohibited by this act.

§ 188. The term "barrel" when used in transactions of purchase or sale of apples, pears or quinces shall represent a quantity equal to one hundred quarts of grain or dry measure and shall be of the following dimensions: head diameter, seventeen and one-eighth inches; length of stave, twenty-eight and one-half inches; bulge, not less than sixty-four inches outside measurement. If the barrel shall be made straight, or without a bulge, it shall contain the same number of cubic inches as the barrel above described. Any person or persons making, manufacturing or causing to be made or manufactured barrels for use in the purchase or sale of apples, pears or quinces, or any person or persons packing apples, pears or quinces in barrels for sale or selling apples, pears or quinces in barrels containing a less quantity than the barrel herein specified shall brand said barrels upon each end and upon the outside, conspicuously, in letters one and one-half inches in length with the words, "short barrel."

§ 2. This act shall take effect immediately

Chap. 487.

AN ACT to amend the insanity law, relative to the commitment of alleged insane persons.

Became a law, May 23, 1908, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section sixty-eight of chapter five hundred and forty-five of the laws of eighteen hundred and ninety-six, en-

titled "An act in relation to the insane, constituting chapter twenty-eight of the general laws," is hereby amended to read as follows:

§ 68. **Duty of committee and others to care for the insane; apprehension and confinement of a dangerous insane person.**— When an insane person is possessed of sufficient property to maintain himself, or his father, mother, husband, wife or children are of sufficient ability to maintain him, and his insanity is such as to endanger his own person, or the person or property of others, the committee of his person and estate, or such father, mother, husband, wife or children must provide a suitable place for his confinement, and there maintain him in such manner as shall be approved by the proper legal authority. The county superintendent of the poor and the overseers of the poor of towns and cities, or in the boroughs of Manhattan and the Bronx in the city of New York the board of trustees of Bellevue and allied hospitals, and in the boroughs of Brooklyn, Queens and Richmond in said city, the commissioner of public charities are required to see that the provisions of this section are carried into effect in the most humane and speedy manner. Upon the refusal or neglect of a committee, guardian or relative of an insane person to cause him to be confined, as required in this chapter, the officers named in this section shall apply to a judge of a court of record of the city or county, or to a justice of the supreme court of the judicial district in which such insane person may reside or be found, who, upon being satisfied, upon proper proofs, that such person is dangerously insane and improperly at large, shall issue a precept to one or more of the officers named, commanding them to apprehend and confine such insane person in some comfortable and safe place; and such officers in apprehending such insane person shall possess all the powers of a peace officer executing a warrant of arrest in a criminal proceeding. Unless an order of commitment has been previously granted, such officers shall forthwith make application for the proper order for his commitment to the proper institution for the care, custody and treatment of the insane, as authorized by this chapter, and if such order is granted such officer shall take the necessary legal steps to have him transferred to such institution. In no case shall any such insane person be confined in any other place than a state hospital or duly licensed institution for the insane, for a

period longer than ten days, nor shall such person be committed as a disorderly person to any prison, jail or lockup for criminals, unless he be violent and dangerous, and there is no other suitable place for his confinement, nor shall he be confined in the same room with a person charged with or convicted of crime. Any person apparently insane, and conducting himself in a manner which in a sane person would be disorderly, may be arrested by any peace officer and confined in some safe and comfortable place until the question of his sanity be determined, as prescribed by this chapter. The officer making such arrest shall immediately notify the superintendent of the poor of the county or the overseer of the poor of the town or city, except in the city of New York, who shall forthwith take proper measures for the determination of the question of the insanity of such person. Whenever in the city of New York an information is laid before a magistrate that a person is apparently insane the magistrate must issue a warrant directed to the sheriff of the county in which the information is made, or any marshal or policeman of the city of New York, reciting the substance of the information, and commanding the officer forthwith to arrest the person alleged to be insane, and bring him before the magistrate issuing the warrant. If upon arraignment it appears to the magistrate issuing the warrant that the person so arraigned before him is apparently insane it shall be the duty of the magistrate if such information is laid in the boroughs of Manhattan and the Bronx, to commit such apparently insane person to the care and custody of the board of trustees of Bellevue and allied hospitals at Bellevue hospital, and therein kept in a safe and comfortable place until the question of his sanity be determined as prescribed by this chapter, and in the boroughs of Brooklyn, Queens and Richmond the said magistrate shall commit such apparently insane person to the care of the commissioner of public charities who shall keep such person in a safe and comfortable place, until the question of his sanity be determined as herein prescribed. Whenever in the city of New York a person is committed as apparently insane as above provided it shall be the duty of the board of trustees of Bellevue and allied hospitals or the commissioner of public charities, as the case may be, to forthwith take proper measures for the determination of the question of the insanity of such person.

§ 2. This act shall take effect immediately.

Chap. 488.

AN ACT to amend chapter six hundred and seventy-six of the laws of eighteen hundred and ninety-eight, entitled "An act to create a metropolitan district; provide for the appointment of a state superintendent therein, and to prescribe his powers and duties," in relation to duties of hotel and lodging house keepers.

Became a law, May 23, 1908, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section nine of chapter six hundred and seventy-six of the laws of eighteen hundred and ninety-eight, entitled "An act to create a metropolitan district; provide for the appointment of a state superintendent therein and to prescribe his powers and duties," as amended by chapter four hundred and ninety-nine of the laws of eighteen hundred and ninety-nine, chapter six hundred and eighty-four of the laws of nineteen hundred and chapter six hundred and eighty-nine of the laws of nineteen hundred and five, is hereby amended to read as follows:

§ 9. Duties of lodging house and hotel keepers, chief of police and heads of certain departments.

Subdivision 1. It shall be the duty of every landlord, proprietor lessee or keeper of a lodging house, inn or hotel, in the metropolitan elections district, to keep a register in which shall be entered the name and residence, the date of arrival and departure of their guests and the room, rooms or bed occupied by them. This register shall be so arranged that there shall be a space on the same line in which each male guest or male lodger shall sign his name, and such landlord, proprietor, lessee or keeper shall make a sworn report upon a blank to be prepared and furnished by the state superintendent twenty-nine days before the election next ensuing to the said superintendent of elections, which report shall contain a detailed description of the premises so used and occupied as a lodging house, inn or hotel, including the size and character of building, and in case only part of a building is so used, a statement as to what part of said building is so used, and also if there be more than one building on the premises, which

particular building is so used, and the names of the lodgers therein and all employees and all other persons living therein including the landlord, proprietor, lessee or keeper and members of his family, who claim a voting residence at or in such lodging house, inn or hotel, together with the length of time they have been regularly lodging or living therein, state the beginning thereof, the color, age, height, weight, color of hair, marks on face or hands, the complexion of and any distinguishing marks or features of face or body whereby such persons may be identified, the place of their nativity, the occupation of and place of business of such persons and designating the room occupied by such person, and whether such person is a guest, landlord, proprietor, lessee or keeper, or member of the family of the landlord, proprietor, lessee or keeper, and the signature of each such person. Above the space reserved for the signature of each such person shall be printed the following words "The foregoing statements are true." In the form of affidavit, which shall be sworn to by the landlord, proprietor, lessee or keeper of such lodging house, inn or hotel, shall be included the statement that the signatures of the guests or lodgers certified to in said report, were written in the presence of such landlord, proprietor, lessee or keeper, and that he personally knows them to be the persons therein described. To the end that the sworn report herein required shall truly set forth the facts therein stated, it shall be the duty of the said landlord, proprietor, lessee or keeper to question each male person lodging or living in such lodging house, inn or hotel as to his intention of claiming such place as a voting residence, and such person shall thereupon declare his intention thereof, and if he shall claim such place as his voting residence he shall give to such landlord, proprietor, lessee or keeper the facts regarding himself as are required to be incorporated in the sworn report herein provided for. Any such landlord, proprietor, lessee or keeper or any lodger who shall violate this provision shall be deemed guilty of a misdemeanor. If any person, other than the keeper or members of his family, shall claim a voting residence in a building or part of the building used as an hotel, within three months of a general election, in which building or part of the building the business of trafficking in liquors is conducted under a liquor tax certificate issued under subdivision one of section eleven of the liquor tax law, the holder

of such certificate shall furnish to the state superintendent of elections, whenever the superintendent shall require him so to do, an affidavit properly acknowledged and signed before a notary public, in which the holder of such certificate shall state whether he and such building have conformed to and at the time of making the affidavit do conform to all the requirements of the laws, ordinances, rules and regulations relating to hotels and hotel keepers, including all laws, ordinances, rules and regulations of the state or locality pertaining to the building, fire and health departments in relation to hotels and hotel keepers and that such building is or was within three months of the said election used as an hotel. If for any reason the said building or part of the building used as an hotel shall be devoted to other than hotel purposes within three months of said election, the holder of such liquor tax certificate shall state in such affidavit for what purpose such building or part thereof formerly used for hotel purposes is then used, and, if the same has been sublet to any person, he shall so state, giving the terms of said lease, and the name of the lessee. Any holder of a liquor tax certificate required to make such affidavit by the said superintendent who shall refuse, fail or neglect to make and file the same forthwith with the superintendent is guilty of a misdemeanor. Any holder of a liquor tax certificate who shall incorporate any false statement in any sworn report or affidavit to the superintendent of elections is guilty of perjury and in addition to suffering the penalty prescribed by law for such crime shall forfeit his liquor tax certificate and shall be deprived of all rights and privileges thereunder and of any right to a rebate of any portion of the tax paid thereon, and shall be debarred from trafficking in liquors for a period of five years from the date of his conviction. Any report or affidavit herein required shall be acknowledged and sworn to before a notary public or commissioner of deeds, and shall be filed personally by such landlord, proprietor, lessee or keeper or by registered mail with the said superintendent of elections at his office. Whenever the state superintendent of elections shall require, it shall be the duty of the chief of police and the respective heads of the departments of buildings, fire and health to forthwith make a report in writing to the said superintendent of elections of every building or part of a building in such city in which the business of trafficking in liquors is conducted under a

liquor tax certificate issued under subdivision one of section eleven of the liquor tax law, showing the location thereof by street and number, election district and assembly district or ward, the character of such business, as declared by the holder of the certificate, specifying whether it be an hotel, restaurant, saloon, store, shop, booth or other place and the name of the holder of such certificate, and if the place be an hotel the report shall state whether or not the building and holder of the certificate conforms to all the laws, ordinances, rules and regulations of the state or locality, including the laws, ordinances, rules and regulations of the building, fire and health departments in relation to hotels and hotel keepers.

§ 2. Such chapter is hereby amended by adding thereto after section nine a new section to be section nine-a thereof to read as follows:

§ 9-a. **List to be furnished if required by the superintendent of elections.**— The superintendent of elections shall also have the right throughout the year whenever deemed necessary by him to require the owner or lessee of any hotel, or inn, containing less than fifty rooms and every lodging house or dwelling to make to said superintendent within ten days after notification, a sworn report upon a blank to be prepared and furnished by said superintendent, which said report shall contain a list giving the name of every male person of twenty-one years of age and upwards, who resides in said hotel, inn, lodging house and dwelling, together with the period that they have resided therein, and such other information as may be deemed necessary by said superintendent; and said superintendent shall have the power whenever deemed necessary by him to require said owner or said lessee in addition to notify said superintendent whenever any of said male persons shall within twenty-nine days before election leave said hotel, inn, lodging house and dwelling. Said superintendent shall have the power to require said list to be made by the owner if said owner is in possession. If said owner is not in possession said superintendent shall have the power to require said owner to furnish the name of the lessee and lessees of said building and said superintendent shall then have the power to require said list of said lessee and lessees. In the event that said building is occupied in part by said owner and in part by a lessee or lessees the said superintendent shall

then have the power to compel the owner to furnish the said list for the part occupied by him, and the names of the lessee or lessees who lease the remaining part of said building, and said superintendent may require said lists from said lessee or lessees. In the event of the neglect of the owner or lessee to furnish said list when demanded by said superintendent of elections said owner or lessee shall be guilty of a misdemeanor punishable by a fine of two hundred and fifty dollars, and in case of a second conviction shall be punishable by a fine of five hundred dollars and imprisonment. If the owner furnishes to said superintendent a list which states that a male person has resided in said premises for a longer period than he has actually resided therein, or if said person puts upon said list a name under which no person has resided any length of time in said premises, said owner shall be guilty of a felony and in addition liable to a penalty of one thousand dollars, which said penalty shall be a lien upon the house and the lot upon which the house is situated. If the lessee furnishes a false list then the said lessee shall be liable to a penalty of one thousand dollars, which said penalty, in addition to being satisfied out of any goods or chattels of the lessee, shall be a lien upon the leasehold, and shall entitle said leasehold to be sold to satisfy said penalty subject to the rights of the landlord. Every penalty imposed herein upon a house or leasehold shall be a lien upon the house and lot or leasehold in relation to which the penalty is imposed from the time of filing of a certified copy of the judgment in the office of the clerk of the county in which said house and lot or leasehold is situated, subject only to taxes, assessments, water rates and to such mortgages and mechanics' liens as may exist thereon prior to such filing, and it shall be the duty of the prosecuting officer upon the entry of said judgment to forthwith file the copy as aforesaid in the office of the clerk of the county and said copy upon said filing shall be forthwith indexed by the clerk in the index of mechanics' liens. A lis pendens may be filed in the office of the clerk of the county in which the realty or leasehold is situated at the time of the commencement of the proceedings under this section.

§ 3. This act shall take effect immediately.

Chap. 489.

AN ACT to create and establish the office of commissioner of elections in the county of Monroe and prescribing his powers and duties.

Became a law, May 23, 1908, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The office of commissioner of elections in the county of Monroe is hereby created, and all of the rights, powers, authority, duties and obligations immediately heretofore by law vested in and imposed upon any officer or officers of the county of Monroe or any political subdivision thereof or therein, excepting the appointment, duties and obligations of inspectors of election, poll clerks and ballot clerks, who shall continue to be appointed and serve as provided by law, with respect to general, special and primary elections in the county of Monroe or in any political subdivision thereof or therein, except elections held at a time other than the time of the general election, of village and school district officers, and special elections for town, village and school district purposes held at such other time, shall forthwith by force of and as an effect of this act be transferred to and be continued in the commissioner of elections in the county of Monroe hereby created, except that inspectors of election and poll clerks in and for the city of Rochester shall be appointed as follows: the chairman of the general committee of the two political parties which at the last preceding general election of a governor cast the highest number of votes for governor shall each, on or before the first day of June, nineteen hundred and eight, and the first day of January of each year thereafter, file with the commissioner of elections a list of persons who are duly qualified to serve as inspectors of elections and poll clerks; the commissioner of elections shall thereafter examine each person whose name appears on such lists as to their qualifications for such offices. Said commissioner of elections shall give each person whose name appears on such list not less than three days' notice of such examination, which notice must be either written or printed and state the date, time and place such examination is to be held, and such notice must be sent either by mail or special messenger. Any

person receiving such notice shall appear before said commissioner of elections at the place fixed for such examination at the time stated in said notice, and the said commissioner of elections shall examine such person as to his qualifications for the office of inspector of election or poll clerk. Such examination may be either written or oral or both, and if said person is found by said commissioner of elections to be qualified under section eleven of the election law, the commissioner of elections or some person designated by him shall administer the constitutional oath of office and issue to him a certificate of appointment, and he shall serve until his successor is appointed; but if such person is found disqualified after examination, his name shall be stricken from the list. A supplemental list of persons for election officers may also be filed containing not more than ten names for each office. Additional supplemental lists for any election district may be filed at any time before the appointments for such district are made, or when a vacancy shall exist for any cause, and all appointments shall be made from the original list if those named therein are found qualified; if not so qualified, then from a supplemental list so filed. If no list is filed by a party, and if within three days after notice in writing by the commissioner of elections to the chairman of the general or county committee of such party, no list is filed, the commissioner may appoint qualified persons, members of the party in default, to act as election officers. If a qualified person cannot be obtained for any election office from the list or lists filed by a party, and if within three days after notice in writing by the commissioner of elections to the chairman of the general or county committee of such party, an additional list is not filed containing the name or names of one or more qualified persons, the commissioner may fill such office by the appointment of a qualified person, a member of the party in default. Except as otherwise herein provided, the provisions of the election law relating to the filing of lists of persons to serve as election officers and the appointment of election officers, shall apply to the filing of such lists and the appointment of such officers in the county of Monroe. The commissioner of elections shall, from time to time as he may deem necessary, hold a school for the instruction of inspectors of election and poll clerks; such school shall not be held at any hour earlier

than seven o'clock in the evening, and notice shall be given by said commissioner of elections to each inspector of elections and poll clerk stating the time and place such school will be held. Said notice shall be by mail and either written or printed; if any inspector of elections or poll clerk shall fail to attend said school after receiving notice thereof, said commissioner may remove him from office and fill the vacancy in the manner provided for in this act. Each election officer shall be paid one dollar for the time spent in attending a school of instruction, to be paid at the same time and in the same manner as he is paid for his other services.

§ 2. Within ten days after this act shall take effect the county judge, special county judge, surrogate, county clerk and sheriff of Monroe county or a majority of them shall appoint a commissioner of elections who must be a resident elector of Monroe county and who shall take office on the first day of May, nineteen hundred and eight, and the said county judge, special county judge, surrogate, county clerk and sheriff or a majority of them shall file in the office of the clerk of Monroe county a certificate of such an appointment. Said commissioner of elections shall take the constitutional oath of office and file the same in the Monroe county clerk's office and shall hold office for the term of two years, his successors to be appointed in like manner except to fill vacancy. In case of a vacancy in the office of commissioner of elections in Monroe county, the county judge, special county judge, surrogate, county clerk and sheriff or a majority of them shall appoint a resident elector of such county to fill such vacancy and shall file a certificate of such appointment in the office of the clerk of Monroe county. The person so appointed shall take the constitutional oath of office and serve the remainder of the term. The commissioner of elections appointed pursuant to this act shall be subject to removal by the governor in like manner as sheriffs of counties.

§ 3. The said commissioner of elections of Monroe county shall communicate to the board of supervisors of Monroe county within thirty days after his appointment the requirements of his office, and it shall be the duty of said board of supervisors to provide an office for the said commissioner of elections suitable for the preservation of the records of said office and for the doing of the work devolved upon said commissioner of elections under and by reason of this act, and the necessary furniture thereof,

and the expense of providing and furnishing such office shall be a county charge and be audited and paid as other county expenses are paid.

§ 4. All books, documents, papers, records and election appliances or appurtenances held or used by or under the control of any officer or officers of Monroe county or of any political subdivision thereof or therein and relating to or used in the conduct of general, special or primary elections, including voting or ballot machines used and owned by the city of Rochester, shall upon request of the commissioner of elections be transferred to the care, custody and control of such commissioner.

§ 5. The said county judge, special county judge, surrogate, county clerk and sheriff shall at the same time appoint a deputy commissioner of elections who shall not be a member of the same political party as the commissioner or of the same political opinion upon state and national questions. The commissioner and deputy commissioner of elections shall be chosen from the two parties which cast the highest and next to the highest number of votes for governor at the last preceding election. The commissioner of elections may appoint a secretary to the commissioner who shall perform such duties as the said commissioner of elections shall prescribe, and hold office at the pleasure of said commissioner, and such other employees as the board of supervisors shall by resolution from time to time authorize, and such employees shall receive such salaries and compensation as the said board of supervisors shall by resolution fix and determine. The deputy commissioner and the secretary shall each take the constitutional oath of office, and file the same in the office of the clerk of the county of Monroe. Each of such employees shall perform such duties as the commissioner of elections shall prescribe and shall each hold office, at the pleasure of said commissioner. The salary of the commissioner of elections of Monroe county, the salary of the deputy commissioner of elections of Monroe county and the salary of the secretary to the commissioner shall be fixed annually by the board of supervisors. Such salaries shall be paid in the same manner as the salaries of the county officers are paid.

§ 6. All notices which are now or which hereafter may be required by law to be given by the secretary of state to any officer of Monroe county or of any political subdivision thereof or therein, relating to the holding of any election, and stating the

officers to be elected thereat or the questions to be voted upon by the people thereat shall, after this act shall take effect, be communicated by the secretary of state to the commissioner of elections of Monroe county.

§ 7. All certificates of nomination for office to be voted for by the electors of Monroe county or any political subdivision thereof or therein at any election to which this act applies, all declinations of nominations for office, all certificates of nomination to fill vacancies caused by such declinations or by death, all statements of candidates' expenses of election, and all rules and regulations of political parties required by law to be filed with any officer of any county to which this act applies or any political subdivision thereof or therein, shall after this act shall take effect be filed in the office of the commissioner of elections, hereby established, and the commissioner of elections is hereby designated as the custodian of primary records for Monroe county, and the said commissioner of elections shall also be the secretary of the county board of canvassers.

§ 8. When the common council of any city, the town board of any town or the board of trustees of any village in the county of Monroe has adopted voting machines, the commissioner of elections shall direct the purchase of the number of machines authorized by said local authorities, and may thereafter when authorized by said local authorities direct the purchase of new or additional machines for such city, town or village. The commissioner of elections may direct the purchase of any kind of voting machine approved by the state board of voting machine commissioners or the use of which has been specifically adopted by law. All supplies or election appliances to be used or furnished by the commissioner of elections for election purposes shall be purchased by the purchasing agent of Monroe county, as other county supplies are purchased. The commissioner of elections is hereby authorized to cause all necessary repairs and alterations to be made and employ such help as may be necessary in making such repairs and in moving, setting up and caring for all election materials and appliances. All expenses for supplies, advertising, posting and circulation of election notices and printing lists of registered voters and other expenses arising from the conduct of elections in Monroe county or in any political subdivision thereof or therein, incurred by or under the direction of the commissioner

of elections, except the compensation of inspectors of election, poll clerks and ballot clerks, shall hereafter be a charge against the county or political subdivision thereof or therein, as specified in the election laws of the state of New York, and shall be certified by the commissioner of elections and be audited and paid as are other claims against the said county; provided, however, that any town or village may upon request of the town board or board of trustees, assume the payment of the cost of purchasing voting machines and shall have the power to issue bonds, certificates of indebtedness or other obligations, which shall be a charge on the town or village and shall be payable at such time or times as such authorities may determine, may be issued with or without interest, and must not be issued or sold at less than par.

§ 9. The commissioner of elections of Monroe county shall, on or before the first day of October in each year, certify to the clerk of the board of supervisors the total amount of the expenses of his said office, including salaries, for the preceding year, and shall certify to said clerk the portion of said expenses which, under the provisions of law, are to be borne by the county at large, and the portions thereof which, under the provisions of law, are to be borne by each political subdivision thereof or therein, and the said clerk of the board of supervisors in spreading taxes levied upon taxable property of Monroe county, or any political subdivision thereof or therein, shall include in the amount spread upon the county at large and the political subdivision thereof or therein the amount so certified by said commissioner to be borne by the said county at large or the political subdivision respectively.

§ 10. The several boards of election of Monroe county shall, upon the completion of the canvass of any general or special election to which this act applies, make and sign an original statement thereof and two certified copies of the same, in the manner and in accordance with the provisions of sections one hundred and eleven and one hundred and twelve of the election law. One of such certified copies and one tally sheet shall be filed forthwith by one inspector deputed for that purpose with the clerk of each city or town and one copy with the supervisor of each town or ward of a city. The original statement of the result of the canvass, together with one tally sheet, all

poll books, void and protested ballots and any and all other packages and documents required by law to be filed by a board of election inspectors, except the aforesaid certified copies of statements of canvass and tally sheet, shall within twenty-four hours after the completion of such canvass be filed by the chairman of each board of inspectors with the commissioner of elections, who shall on or before the fifteenth day of December after every general election, and within twenty days after any special election herein provided for, cause tabulated statements of the result of such election to be made and certified; one of which shall be filed with the county clerk, and one with the clerk of the city of Rochester in said county so far as they shall relate to the election of city or ward officers voted for in said city at such election.

§ 11. All publications, advertising or posting of election notices required by law relating to primary, general and special elections to which this act applies, and all notices of such elections as are required by law to be published, advertised or posted shall be published, advertised or posted by the commissioner of elections hereby created.

§ 12. It shall be the duty of the commissioner of elections and the deputy commissioner of elections to cause the proper ballot labels to be placed on voting machines, and to cause the machines to be placed in proper order for voting, and to examine all voting machines before they are sent out to the different polling places, and to see that all of the registering counters are set at zero (000), and to lock the voting machines so that the counting machinery cannot be operated, and to seal each one with a numbered metal seal. Before preparing a voting machine for an election, written notice shall be mailed to the chairman of the general or county committee of at least three of the principal political parties, stating the time when and the place where the machines will be prepared; at which time and place one representative of each of such political parties, certified by the respective chairmen of the general or county committees of such parties, shall be entitled to be present, and to see that the machines are properly prepared and are placed in proper condition for use at election. Such representatives shall take the constitutional oath of office, and shall be regarded as election officers,

and shall be entitled to compensation for the time spent in the discharge of their duties, at the same rate and be paid in the same manner as other election officers. It shall be the duty of such representatives to be present at the preparation of voting machines for election, and to see that the machines are properly prepared and that all the registering counters are set at zero (000). When a machine has been prepared for election, it shall be the duty of such representatives to make a certificate in writing which shall be filed in the office of the commissioner of elections, stating the number of the machine, whether or not all of the counters are set at zero (000), the number registered on the protective counter, if one is provided, and the number on the metal seal with which the machine is sealed. Such representatives shall perform their duties under the direction of the commissioner of elections. Each voting machine shall be furnished with a lantern or other device for lighting, which shall give sufficient light to enable voters while in the booth to read the ballot label, and suitable for use by the election officers in examining the counters. All voting machines shall be provided with a screen, hood or curtain which shall be so made and adjusted as to completely conceal the voter and his action while voting. It shall be the duty of the commissioner of elections to cause the voting machines to be delivered at the respective polling places in which they are to be used at least one hour before the time set for the opening of the polls.

§ 13. Nothing in this act shall be construed to affect or limit the powers of the board of supervisors of Monroe county or the town board of any town, or the village trustees of any village in such county, as boards of canvassers for the county, towns and villages respectively. Nor shall this act apply to elections held in cities, towns or villages where elections are held at a time other than at the time of general elections.

§ 14. All acts or parts of acts inconsistent with this act, so far as they may apply to Monroe county or to any political subdivision thereof or therein, are hereby repealed.

§ 15. This act shall take effect immediately.

Chap. 490.

AN ACT to amend the Greater New York charter, generally.

Became a law, May 23, 1908, with the approval of the Governor. Passed, three-fifths being present.

Accepted by the City.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The caption of chapter seventeen of the Greater New York charter, as re-enacted by chapter four hundred and sixty-six of the laws of nineteen hundred and one, is hereby amended to read as follows:

CHAPTER XVII.

TAXES AND ASSESSMENTS.

Title 1. Department of taxes and assessments; powers and duties.
2. Assessments for local improvements other than those confirmed by a court of record.
3. Vacating and modifying assessments for local improvements other than those confirmed by a court of record.
4. Opening streets and parks.
5. Sales of tax liens on lands for taxes, assessments and water rents.

§ 2. Section nine hundred and nine of the Greater New York charter, as re-enacted by chapter four hundred and sixty-six of the laws of nineteen hundred and one, is hereby amended to read as follows:

ASSESSMENT-ROLLS TO REMAIN IN CUSTODY OF BOARD OF ALDERMEN.

§ 909. The tax or assessment-rolls, when finally submitted to the board of aldermen on the first Monday of July in each year, shall remain in its custody, but the president of the board may, by written permission, permit access to them, and he is hereby, in the name of the board of aldermen and as its act, authorized and directed to cause to be properly estimated and computed the taxes annually imposed, and cause the same to be properly set down or extended in the several assessment-rolls or tax books, as required by the next section. It shall also be the duty of said

president to cause the items of said taxes to be carefully added, and to set down the amount of the same therein; and when completed to deliver the tax books relating to real estate to the comptroller, in order that the unpaid water rents, and the expenses of meters, with their connections and setting, water rates and other lawful charges for the supply of water measured by meters of any preceding year may be entered therein. After such completion of the assessment-rolls or tax books it shall be the duty of the city clerk to procure the proper warrants authorizing and requiring the receiver of taxes to collect the several sums therein mentioned according to law, and such warrants need be signed only by the president of the board of aldermen, and countersigned by the city clerk, and immediately thereafter the president of the board of aldermen shall deliver the said assessment-rolls, with the warrants aforesaid annexed thereto, to the receiver of taxes, at the same time notifying the comptroller of the amount of taxes in each book, in order that he may cause the proper sum to be charged to the receiver for collection.

§ 3. Section nine hundred and twenty of such charter, as amended by chapter three hundred and three of the laws of nineteen hundred and seven, is hereby amended to read as follows:

UNDIVIDED PARTS OF TAXES; PAYMENT OF.

§ 920. If a sum of money in gross has been or shall be taxed upon any lands or premises, any person or persons claiming any divided or undivided part thereof may pay such part of the sum of money so taxed, also of the interest and charges due or charged thereon, as the said comptroller may deem to be just and equitable. The department of taxes and assessments shall apportion the assessed valuation of such lands or premises when requested by the comptroller so to do, and shall certify such apportionment to him. The determination of the said comptroller shall be based upon such apportionment so certified. The remainder of the sum of money so taxed, together with the interest and charges, shall be a lien upon the residue of the land and premises only, and the tax lien upon such residue may be sold to satisfy such tax, interest or charges thereon, in the same manner as though the residue of said tax had been imposed only upon such residue of said lands or premises.

§ 4. Section nine hundred and sixty-four of such charter is hereby amended to read as follows:

RE-ASSESSMENT.

§ 964. Any lands which may be discharged from any lien for an assessment for any local improvement or as to which a sale of the tax lien thereon for such assessments authorized to be made by section ten hundred and twenty-seven of this act has been vacated or set aside may be again assessed by the board of assessors, after a public hearing, notice of which said hearing shall be published twice in each week for two successive weeks in the City Record and the corporation newspapers, for such amount as would have been justly chargeable if fraud or irregularity had not been committed; and the amount so assessed shall be a lien on said lands until paid, and shall be collectible in the manner provided by law for the collection of assessments, but all proceedings to make a new assessment shall be at the expense of the city.

§ 5. The caption of title five of chapter seventeen of the Greater New York charter, as re-enacted by chapter four hundred and sixty-six of the laws of nineteen hundred and one, is hereby amended to read as follows:

Title 5. Sales of tax liens on lands for taxes, assessments and water rents.

§ 6. Section ten hundred and seventeen of such charter is hereby amended to read as follows:

WHEN TAXES AND WATER RENTS TO BE LIENS ON LANDS ASSESSED.

§ 1017. All taxes and all assessments for local improvements and all water rents, and the expenses of water meters, with their connections and setting, and water rates and other lawful charges for the supply of water measured by meters, and the interest and charges thereon, which may, in the city of New York, as by this act constituted, hereafter be laid or may have heretofore been laid, upon any real estate now in said city, shall continue to be, until paid, a lien thereon, and shall be preferred in payment to all other charges. No assessments for any local improvements shall be deemed to be fully confirmed, so as to be due and be a lien upon the property included in the assessment, until ten days after the title thereof, with the date of confirmation, shall be entered with the date of such entry, in a record of the titles of assessments confirmed, to be kept in the office of the collector of assessments and arrears. The words "water rents" whenever they are used in this title shall include the expenses of meters, with their connections

and setting, water rents, water rates and all lawful charges for the supply of water measured by meters. No charge for expenses of meters, their connections or setting shall be due or become a charge or lien on the premises in which the water meter shall be installed or against which a charge shall be made, until such charge shall have been definitely fixed by the proper officer and an entry thereof shall have been made with the date of such entry in the book in which the regular water rent charges against such premises are to be entered. No water rent, for the supply of water measured by a meter, shall be due or become a lien or charge upon the premises in which such meter is installed until an entry shall have been made indicating that said premises are metered, with the date of such entry in the book in which the regular water rent charges against such premises are to be entered. Whenever an increase in the amount of water rent shall be made or a charge shall have been made for water for any building completed subsequent to the first day of May in each year the amount of such increase of the water rent or new charge for such new building shall not be due or become a lien or charge against the premises until the amount thereof shall have been entered with the date of such entry in the book in which the regular water charges against such premises are to be entered.

§ 7. Section ten hundred and twenty of such charter is hereby amended to read as follows:

RATE.

§ 1020. Interest shall hereafter be charged and collected at the rate of seven per centum per annum on all arrears of taxes and assessments returned to the collector of assessments and arrears from the time they become due and on water rents and the penalties thereon from the time the taxes become due, to which they may be added until the date of payment, or until such other date when the amount thereof may have been advanced to the city by the purchaser of the tax lien in respect thereof.

§ 8. Section ten hundred and twenty-one of such charter is hereby amended to read as follows:

APPORTIONMENT OF ASSESSMENT.

§ 1021. If a sum of money in gross has been or shall be assessed for local improvements, upon any lands or premises in the city

of New York, any person or persons claiming any divided or undivided part thereof may pay such part of the sums of money so assessed, also of the interest and charges due or charged thereon, as the comptroller may deem to be just and equitable; and the remainder of the sum of money so assessed, together with the interest and charges, shall be a lien upon the residue of the land and premises only, and the tax lien upon such residue may be sold in pursuance of the provisions of this act, to satisfy the residue of such assessment, interest, or charges thereon, in the same manner as though the residue of said assessment had been imposed upon such residue of said land or premises.

§ 9. Section ten hundred and twenty-three of such charter is hereby amended to read as follows:

RECEIVER OF TAXES TO RETURN ARREARS TO THE COLLECTOR.

§ 1023. The receiver of taxes shall, on the first day of June, in each year, make a return to the collector of assessments and arrears, of all taxes on real estate and of water rents, which have been added thereto, remaining unpaid, and shall notify the comptroller of the aggregate amount of arrears so returned, and balance on his books the accounts of the arrears so returned, by charging the amount thereof to the said collector, and shall thereafter receive no payments on accounts of arrears so returned, but may nevertheless certify to the collector of assessments and arrears any errors, which shall, upon such certificate, be corrected by the said collector any time before settlement.

§ 10. Section ten hundred and twenty-four of such charter is hereby amended to read as follows:

WATER RENTS TO BE PROVIDED FOR IN ASSESSMENT-ROLLS.

§ 1024. There shall be ruled in the yearly assessment-rolls of each section or ward a column headed "water rents" in which immediately after the confirmation of such assessment-rolls, the collector of assessments and arrears shall cause to be entered opposite the ward, lot, town block and map numbers of the property on which the said arrears may be due, the amounts due for "water rents" and the expenses of meters, with their connections and setting, water rates and other lawful charges for the supply of water measured by meters, as transmitted to him by the commissioner of water supply, gas and electricity, in accordance with

the law, and the same shall be collected at the same time and in the same manner as the taxes to which they shall be added.

§ 11. Section ten hundred and twenty-five of such charter is hereby amended to read as follows:

ARREARS LIKEWISE TO BE PROVIDED FOR.

§ 1025. There shall be ruled in the yearly assessment-rolls of the taxes in each section or ward, a column headed "arrears," in which the collector of assessments and arrears shall annually, before any taxes for the year are collected, cause to be entered the word "arrears" opposite to the ward, lot, town block and map numbers on which any arrears of taxes, or of taxes with the water rent added, shall be due, or on which any assessment shall remain unpaid which was due or confirmed one month prior to the first of June, then last past.

§ 12. Section ten hundred and twenty-six of such charter is hereby amended to read as follows:

BILLS FOR TAXES TO SHOW ARREARS.

§ 1026. There shall be ruled a column for "arrears" in every bill rendered for taxes for lots on which said arrears or assessments, or taxes with water rents added, may be due, as aforesaid, or may have been sold and yet be redeemable, in which shall be written opposite the entry of the ward, lot, town block and map number of said lot, "arrears" and at the bottom of said bill shall be printed: "Whenever any tax or assessment shall remain unpaid for three years or any water rent shall remain unpaid for four years the tax lien on the property will be sold to satisfy such arrears of taxes, assessments or water rents, and all taxes, assessments and water rents up to a day to be named in the advertisement of sale as stated therein. The columns for arrears indicate lots sold for arrears, or to be sold therefor; arrears to be paid and lots redeemed at the office of the collector of assessments and arrears."

§ 13. Section ten hundred and twenty-seven of such charter is hereby amended to read as follows:

SALES OF TAX LIENS FOR TAXES AND ASSESSMENTS: PROCEEDINGS.

§ 1027. The right of the city to receive taxes, assessments and water rents and the lien thereof, may be sold by the city, and after

such sale, shall be transferred, in the manner provided by this title. The right and lien so sold shall be called "tax lien" and the instrument by which it is assigned shall be called "transfer of tax lien." Whenever any tax on lands or tenements, or any assessments on lands or tenements for local improvements, shall remain unpaid for the term of three years from the time the same shall have been fully confirmed, so as to be due and payable and also whenever any water rents in said city shall have been due and unpaid for the term of four years from the time the same shall have been due, it shall and may be lawful, for the collector of assessments and arrears, under the direction of the comptroller, to advertise the tax liens on the said lands and tenements or any of them for sale, including in such advertisement the tax lien for all items up to a day named in the advertisement, and by such advertisement the owner or owners of such lands and tenements respectively shall be required to pay the amount of such tax, assessment, or water rents, with the said penalties thereon so remaining unpaid, together with the interest thereon at the rate of seven per centum per annum to the time of payment, with the charges of such notice and advertisement, to the said collector, and notice shall be given by such advertisement that if default shall be made in such payment the tax lien on such lands and tenements will be sold at public auction at a day and place therein to be specified, for the lowest rate of interest, not exceeding twelve per centum per annum, at which any person or persons shall offer to take the same in consideration of advancing the said tax, assessment and water rents and penalties as the case may be, the interest thereon as aforesaid to the time of sale, the charges of the above mentioned notices and advertisement and all other costs and charges accrued thereon; and if, notwithstanding such notice, the owner or owners shall refuse or neglect to pay such tax, assessment, water rents and penalties, with the interests as aforesaid, and the charges attending such notice and advertisement, then it shall and may be lawful for the said collector under the direction of the said comptroller, to cause such tax lien on such lands and tenements to be sold at public auction, for the purpose and in the manner expressed in the said advertisement, and such sale shall be made on the day and at the place for that purpose mentioned in the said advertisement, and shall be continued from time to time, if necessary, until all the tax liens on the lands and tenements so advertised shall be sold.

But the tax lien on houses or lots, or improved or unimproved lands, in the city of New York, shall not be hereafter sold at public auction for the non-payment of any tax, assessment, or water rents which may be due thereon, unless notice of such sale shall have been published once in each week successively for three months in the City Record and the corporation newspapers, which advertisement shall contain, appended to said notice, a particular and detailed statement of the property the tax lien on which is to be sold. Or the said detailed statement and description, instead of being published in the City Record and the corporation newspapers, shall, at the option of the said comptroller, be printed in a pamphlet, in which case copies of the pamphlet shall be deposited in the office of the said collector, and shall be delivered to any person applying therefor. And the notice provided for in this section to be given of the sale of tax liens on houses and lots and improved and unimproved lands shall also state that the detailed statement of the taxes, assessments, or water rents, and the property taxed, assessed, or on which the water rents are unpaid, is published in the City Record and the corporation newspapers, or in a pamphlet, as the case may be, and that copies of the pamphlet are deposited in the office of the said collector, and will be delivered to any person applying for the same. No other notice or demand of the tax, assessment or water rent shall be required to authorize the sale of tax liens on any lands and tenements as hereinbefore provided. The collector of assessments and arrears may, with the written approval of the comptroller, cancel any certificate or lease for unpaid taxes, assessments and water rents, held by the city of New York, or to which the city has acquired the right, and upon such cancellation, the lien of such tax, assessment or water rent shall be and remain the same as if no sale for such unpaid tax, assessment or water rent had been made.

§ 14. Section ten hundred and twenty-eight of such charter is hereby repealed.

§ 15. Section ten hundred and twenty-nine of such charter is hereby renumbered to be section ten hundred and twenty-eight and is hereby amended to read as follows:

POSTPONEMENT OF SALES.

§ 1028. It shall be lawful for the comptroller to suspend or postpone any sale or sales of tax liens on lands and tenements or any portion thereof which shall have been advertised for

sale, to any time not exceeding fifteen months from the day specified in any such advertisement. All sales which shall be so postponed or suspended may be made without further advertisement, other than a general notice of such postponement, to be published in the City Record and the corporation newspapers.

§ 16. Section ten hundred and thirty of such charter is hereby renumbered to be section ten hundred and twenty-nine and is hereby amended to read as follows:

SALES OF TAX LIENS TO BE CONDUCTED BY THE COLLECTOR OF ASSESSMENTS AND ARREARS.

§ 1029. The collector of assessments and arrears or his assistant shall conduct the sales hereinbefore provided to be made, and no auctioneer other than said collector or his assistant shall be employed to make such sale, and no auctioneers' fees shall be charged thereon. The comptroller shall require from each purchaser of a tax lien at the time of such sale a deposit on account of ten per centum of the amount of the tax lien purchased by him, and not later than thirty days from the date of sale, the balance shall be paid to the collector of assessments and arrears, at his office. If no bid shall be received for a tax lien offered for sale, the collector of assessments and arrears, for and on behalf of the city of New York, may bid in the said tax lien, and upon such bid, no deposit or payment in cash shall be required from the city. When the city has bid in any tax lien a transfer of tax lien to the city shall be executed by the said collector in the form and manner prescribed for other transfers of tax liens, and the city shall have the same rights in, to and under such transfer of tax lien as if the same had been bought by any other other* person. Transfers of tax lien shall be made and delivered to the purchaser without charge upon payment of the amounts therein shown to be due. In case any purchaser shall not complete his purchase in accordance with the terms prescribed as herein provided, then the amount deposited by him at the time of the sale shall be forfeited to the city, and the entire tax lien upon the lands affected by such purchase shall be sold again. Such resale shall be held at such time as the comptroller may direct and shall be advertised in the City Record and the corporation newspapers, in such manner and for such time, not less than two weeks, as the comptroller may direct. All deposits

* So in original.

forfeited as aforesaid shall be paid into the general fund of the city of New York.

§ 17. Sections ten hundred and thirty-one to ten hundred and forty-nine, both inclusive, of such charter are hereby repealed.

§ 18. Such charter is hereby amended by adding thereto eighteen new sections, to be sections ten hundred and thirty, ten hundred and thirty-one, ten hundred and thirty-two, ten hundred and thirty-three, ten hundred and thirty-four, ten hundred and thirty-five, ten hundred and thirty-six, ten hundred and thirty-seven, ten hundred and thirty-eight, ten hundred and thirty-nine, ten hundred and forty, ten hundred and forty-one, ten hundred and forty-two, ten hundred and forty-three, ten hundred and forty-four, ten hundred and forty-five, ten hundred and forty-six and ten hundred and forty-seven, thereof, and to read respectively, as follows:

TRANSFERS OF TAX LIENS.

§ 1030. A transfer of tax lien shall operate to transfer and assign the tax lien upon the lands or tenements described therein for the taxes, assessments and water rents, and penalties, the interest thereon, and the charges of the notices and advertisement given pursuant to section ten hundred and twenty-seven of this act, and all other costs and charges, so advertised for sale, free of all taxes, assessments and water rents, which accrued before the day of the date mentioned in the advertisement of the sale stated therein, and to create a lien upon the property affected thereby for the interest to which the purchaser may be entitled under his bid, but subject to the lien for and right of the city to collect and receive all taxes, assessments and water rents which accrued or which became a lien on and after the day of the date of the first advertisement of such sale as stated therein. A transfer of tax lien shall contain a transfer and assignment by the city of the tax lien sold to the purchaser, the date of the sale, the aggregate amount of the tax lien so transferred, and the items of taxes, assessments, water rents, penalties, and interest composing the tax lien, the annual rate of interest which the purchaser has bid and will be entitled to receive, the date when the amount of the tax lien will be due, and a description of the real property affected by the tax lien, which description shall include the name of the borough in which the property lies and shall refer for certainty to the designation of said lot on the tax map, by its lot number and the number of the block, ward or section in which it is con-

tained, and such other identifying description as the collector of assessments and arrears may deem proper to add. Each transfer of tax lien shall be subscribed by or in behalf of the collector of assessments and arrears making the sale, or a successor in office of such collector, and shall be acknowledged by the officer subscribing the same in the manner in which a deed is required to be acknowledged to be recorded in the county in which the real property affected is situated.

RECORD OF TRANSFERS OF TAX LIENS.

§ 1031. The collector of assessments and arrears shall keep in his office a public record of sales of tax liens, and a copy of each transfer of tax lien issued by him. Assignments of transfers of tax lien duly acknowledged may be filed and recorded in the office of the collector of assessments and arrears. A transfer of tax lien and any assignment thereof, duly acknowledged, shall be deemed conveyances under article eight of the real property law, and may be recorded in the office of the recording officer of any county in which the real property which it affects is situated. Transfers of tax lien and all assignments thereof shall be recorded by recording officers in the same manner as mortgages and assignments thereof, but without payment of tax under article fourteen of the tax law. The record in the office of the collector of assessments and arrears of sales of tax liens, of a transfer of tax lien, and of a copy of a transfer of tax lien, and of an assignment of a transfer of tax lien; a record of a transfer of tax lien in the office of a recording officer, and of an assignment of tax lien, duly acknowledged, in the office of a recording officer, shall each be evidence in any court in the state without further proof. A transcript of any record enumerated in this section, duly certified, shall be evidence in any court in the state with like effect as the original instrument of record. Neither the tax lien nor the rights transferred or created by a transfer of tax lien shall be impaired by failure of a recording officer to record a transfer of tax lien made by the city through the collector of assessments and arrears. Unless a contrary intent appears, a tax lien shall be presumed to be satisfied and discharged whenever it shall appear from recorded instruments that the tax lien has been transferred or assigned to the owner of such lands or tenements, notwithstanding other intervening estates or liens.

RIGHTS OF PURCHASER OF TAX LIEN.

§ 1032. The aggregate amount of each tax lien transferred pursuant to this title, shall be due three years from the date of the sale. Until such aggregate amount is fully paid and discharged, the holder of the transfer of tax lien shall be entitled to receive interest on such aggregate amount from the day of sale, semi-annually on the first day of January and July, at the rate which the purchaser shall have bid. At the option of the holder of any transfer of tax lien the aggregate amount thereof shall become due and payable after default in the payment of interest for thirty days or after default for six months after the delivery of transfer of tax lien in the payment of any taxes, assessments or water rents, which become a lien on and after the day of the date mentioned in the advertisement of the sale as stated therein, of the tax lien transferred by such transfer of tax lien. Any person having a legal or beneficial interest in property affected by a transfer of tax lien may satisfy the same before maturity upon giving thirty days' notice in writing to the holder thereof, of the day on which payment will be made and upon payment of the principal with interest at the rate bid to a time three months after the day so fixed for payment. If notice of intention to make payment be given as herein provided, and such payment be not made, then the whole amount of any tax lien concerning which such notice shall have been given shall become due and payable at the option of the holder thereof. Or any such person may pay to the collector of assessments and arrears such principal with interest at the rate bid up to a day six months after such payment. In case such payment be made to the collector of assessments and arrears he shall receive the same for the benefit of the holder of the tax lien thus discharged, and shall give notice thereof to the purchaser or the personal representative or assignee of the purchaser, by mail addressed to such address as may have been furnished to the collector of assessments and arrears. Upon receiving surrender of such transfer of tax lien the collector of assessments and arrears shall pay the amount thus deposited, to the person who according to the records in his office appears to be entitled thereto, or to the personal representatives of such person.

DISCHARGE OF TAX LIEN.

§ 1033. A tax lien sold pursuant to the provisions of this title must be discharged upon the record thereof by the col-

lector of assessments and arrears when payment is made to him of the principal and interest as provided in the last preceding section, and also when the transfer of tax lien is surrendered to him for cancellation and there is presented to him a certificate executed by the purchaser, or the personal representative or assignee of the purchaser, acknowledged so as to be entitled to be recorded in the county in which the real property affected by such tax lien is situated, certifying that the tax lien has been paid or has been otherwise satisfied and discharged. The transfer of tax lien thus surrendered and such certificate of discharge must be filed by the collector of assessments and arrears and he must note upon the margin of the record of such sale, upon such transfer of tax lien and upon the copy of the transfer of tax lien kept in his office a minute of such discharge and the date of filing thereof. If the transfer of tax lien shall have been lost or destroyed or mutilated, if payment be made to the collector of assessments and arrears, or if a certificate of discharge be filed as hereinafter provided, application for an order dispensing with the surrender of the transfer of tax lien may be made in the same manner as is provided in section two hundred and seventy-a of the real property law, the provisions of which so far as the same may be, are hereby made applicable to discharge of tax liens. The collector of assessments and arrears shall upon demand issue his certificate showing the discharge of any tax lien which may have been duly discharged as provided in this section, and such certificate may be filed in any office where the transfer of tax lien is recorded, and any recording officer with whom such a certificate is filed, shall record the same, and upon the margin of the record of such transfer of tax lien in his office shall note a statement that the same has been discharged with a reference to the record of such certificate in his office.

EXEMPTION FROM TAXATION.

§ 1034. Tax liens and transfers of tax liens shall be exempt from taxation by the state or any local subdivisions thereof, except from the taxes imposed by article ten of the tax law. The real property affected by any tax lien shall not be exempt from taxation by reason of this section.

FORECLOSURE OF TAX LIEN.

§ 1035. If the amount of any tax lien which shall have been transferred by a transfer of tax lien shall not be paid when under

its terms and the provisions of this title such amount shall be due, the holder of such tax lien may maintain an action in the supreme court to foreclose such tax lien. In an action to foreclose a tax lien any person shall be a proper party of whom the plaintiff alleges that such person has or may have or that the plaintiff has reason to believe that such person has or may have, an interest in or claim upon the real property affected by the tax lien. Except as otherwise provided in this title an action to foreclose a tax lien shall be regulated by the provisions of the code of civil procedure and by all other provisions of law, and rules of practice applicable to actions to foreclose mortgages on real property. The people of the state of New York may be made party to an action to foreclose a tax lien in the same manner as a natural person.

PLEADING TRANSFER OF TAX LIEN.

§ 1036. Whenever a cause of action, defense or counterclaim, is for the foreclosure of a tax lien, or is in any manner founded upon a tax lien or a transfer of tax lien, the production in evidence of an instrument executed by the collector of assessments and arrears, in the form prescribed in section ten hundred and thirty for a transfer of tax lien subscribed by or in behalf of a collector of assessments and arrears, shall be presumptive evidence that the lien purported to be transferred by such an instrument was a valid and enforceable lien, and that it has been duly assigned to the purchaser, and it shall not be necessary to plead or prove any act, proceeding, notice or action, preceding the delivery of such transfer of tax lien nor to establish the validity of the tax lien transferred by such transfer of tax lien. If a party or person in interest in any such action or proceeding claims that a tax lien is irregular or invalid, or that there is any defect therein or that a transfer of tax lien is irregular, invalid or defective, such invalidity, irregularity or defect must be specifically pleaded or set forth, and must be established affirmatively by the party or person pleading or setting forth the same.

JUDGMENT UPON TAX LIEN.

§ 1037. In every action for the foreclosure of a tax lien, and in every action or proceeding in which a cause of action, defense or counterclaim is in any manner founded upon a tax lien or a transfer of tax lien, such transfer of tax lien and the tax lien which it transfers shall be presumed to be regular

and valid and effectual to transfer to the purchaser named therein a valid and enforceable tax lien. Unless in such an action or proceeding such tax lien or transfer of tax lien be found to be invalid, they shall be adjudged to be enforceable and valid, for the amount thereof and the interest to which the holder may be entitled, and a tax lien transferred by a transfer of tax lien effectual to transfer such tax lien to the purchaser named therein.

JUDGMENT OF FORECLOSURE OF TAX LIEN.

§ 1038. In an action to foreclose a tax lien, unless the defendants obtain judgment, the plaintiff shall be entitled to a judgment establishing the validity of the tax lien so far as the same shall not be adjudged invalid and of the transfer of tax lien, and directing the sale of the real property affected thereby, or such part thereof as shall be sufficient to discharge the tax lien, or such items thereof as shall not be adjudged invalid and the interest thereon and all other accrued taxes, assessments and water rents affecting the real property, together with the expenses of the sale, and the costs of the action.

EFFECT OF JUDGMENT FORECLOSING TAX LIEN.

§ 1039. Every final judgment in an action to foreclose a tax lien shall be binding upon, and every conveyance upon a sale pursuant thereto, shall transfer to and vest in the purchaser all the right, title, interest and estate in and claim upon the real property affected by such judgment, of the plaintiff, each defendant upon whom the summons is served, each person claiming from, through or under such a defendant by title accruing after the filing of notice of pendency of the action or after the entry of judgment and filing of the judgment roll in the proper county clerk's office, and each person not in being when the judgment is rendered, who afterwards may become entitled to a beneficial interest attaching to, or an estate or interest in such real property or any portion thereof, provided that the person presumptively entitled to such beneficial interest, estate or interest is a party to such action or bound by such judgment. So much of section four hundred and forty-five of the code of civil procedure as requires the court to allow a defendant to defend an action after final judgment shall not apply to an action to foreclose a tax lien. Delivery of the possession of real property affected by a judgment to foreclose a tax lien may be compelled in the manner

prescribed in section sixteen hundred and seventy-five of the code of civil procedure.

SURPLUS.

§ 1040. Any surplus of the proceeds of the sale, after paying the expenses of the sale, and all taxes, assessments and water rents, which accrued or became a lien on and after the day of the date mentioned in the advertisement of the sale as stated therein, under which the foreclosed transfer of tax lien was issued, and satisfying the amount of the tax lien and interest and the costs of the action, must be paid into court, for the use of the person or persons entitled thereto. If any part of the surplus remains in court for the period of three months, and no application has been made therefor, the court must, and, if an application therefor is pending, the court may direct such surplus to be invested at interest, for the benefit of the person or persons entitled thereto, to be paid upon the direction of the court.

FORECLOSED TAX LIEN NOT ARREARS.

§ 1041. Any party to an action to foreclose a tax lien or any purchaser or any party in interest may give notice of such foreclosure to the collector of assessments and arrears, and after such notice the items which constituted the tax lien thus foreclosed shall not be entered by the collector of assessments and arrears in any yearly assessment-roll, so long as the judgment of foreclosure of such lien remains in force.

PROCEDURE WHEN NO BID FOR A TAX LIEN IS RECEIVED.

§ 1042. If no bid be received for a tax lien on any parcel of property at a duly advertised sale and it shall appear to the comptroller that the taxes, assessments, water rents, penalties and accrued interest amount to so large a proportion of the value of the property that the security is insufficient to attract bidders, then and in that event the comptroller and the corporation counsel shall investigate the facts and may fix a lesser amount for which in their judgment a tax lien bearing twelve per centum interest can be sold. A certificate in writing, signed by them, shall be filed with the collector of assessments and arrears, setting forth the amount so determined by them, together with a brief statement of the reasons for such reduction, which certificate shall include the total amount of the taxes, assessments, water rents, penalties

and accrued interest, the assessed value of such parcel of real estate, and the value of the land as the same appears on the last preceding assessment-roll. Thereafter such reduced amount shall constitute the tax lien upon said real property for the items therein enumerated, unless the same be increased as hereinafter provided, which reduced amount shall bear interest at the rate of seven per centum per annum from the date of such certificate until fully paid, or until the tax lien thus fixed, together with the lien for any other taxes, assessments, water rents, and penalties and interest becoming liens thereafter shall be sold. The collector of assessments and arrears shall forthwith advertise the tax lien for such reduced amount for sale to the highest bidder in the manner provided for the advertisement for the sale of ordinary tax liens. Such tax lien shall bear interest at twelve per centum and shall be sold to the person bidding the highest amount of money in excess of the reduced amount so fixed by the comptroller and corporation counsel, provided that if the bidding reaches the original amount of the tax lien on the real property affected, together with all interest and penalties thereon, the sale shall proceed in the manner provided in section ten hundred and twenty-nine; if such tax lien be sold for a sum greater than the reduced amount fixed as aforesaid with the interest and penalties thereon, then such greater amount shall be considered the tax lien upon the real property affected thereby. If no bid shall be received at such sale, the comptroller and corporation counsel shall reconsider their determination and may file a new certificate in the manner hereinbefore provided, and the collector of assessments and arrears shall proceed again as hereinbefore directed. Such procedure shall be repeated until a tax lien for such taxes, assessments, water rents and accrued interest shall be sold.

REIMBURSEMENT FOR DEFECTIVE TAX LIENS OR TRANSFERS OF TAX LIENS.

§ 1043. If a transfer of tax lien be vacated or be set aside or canceled, or if it be adjudged in any action that a transfer of tax lien is invalid or defective, or not sufficient to transfer a tax lien to the purchaser thereof, or if in any action to foreclose a tax lien, it be adjudged that the entire tax lien is void and not a valid lien on the premises which it purports to affect, and that the complaint be dismissed, the purchaser may surrender such transfer of tax lien, together with a certified copy of such judgment or

decree, to the collector of assessments and arrears and thereupon shall be repaid by the city the amount paid for such transfer of tax lien, with interest from the time of such payment at the rate set forth in the transfer of tax lien, and the city shall pay the taxed costs and disbursements of any action or proceeding in which such adjudication is made.

REIMBURSEMENT WHEN PART OF TAX LIEN IS DEFECTIVE.

§ 1044. If, in any action to foreclose a tax lien, it shall be adjudged that some, but not all of the items constituting such tax lien are void and not a valid lien on the premises covered by such tax lien, or if in any action or proceeding it be adjudged that a transfer of tax lien is invalid or defective, as to some though not as to all of the items transferred, the holder of the transfer of tax lien, by instrument in writing duly acknowledged, shall retransfer to the city the items thus affected, and shall be repaid by the city such portion of the amount paid for such transfer of tax lien as may be applicable to the items thus affected, with interest from the time of such payment at the rate set forth in the transfer of tax lien, and the city shall pay the taxed costs and disbursements of any action or proceeding, other than an action to foreclose the tax lien, in which such adjudication is made. The provisions of this section shall not apply to a tax lien which has been reduced as provided in section ten hundred and forty-three, unless by such an adjudication the amount of the tax lien which shall remain valid and enforceable, be reduced below the sum bid for the same and the interest thereon at the rate to which the holder of the transfer of tax lien is entitled, and the amount repaid by the city shall not exceed the difference between the sum to which the tax lien has been reduced, and the sum paid therefor, with interest thereon at the rate to which the holder of the transfer of tax lien is entitled.

OWNERS MAY QUESTION TRANSFERS OF TAX LIENS.

§ 1045. Any person interested in or holding a lien upon any real property affected by any unpaid tax lien or transfer of tax lien, may file a written notice with the collector of assessments and arrears claiming that a transfer of tax lien is invalid or defective or that a tax lien which has been transferred pursuant to this title or which is advertised to be transferred is invalid, defective, void or ineffectual, or should be vacated or set aside.

The collector of assessments and arrears shall transmit all such notices to the corporation counsel, who shall examine into the facts and proceedings resulting in the tax lien or transfer of tax lien mentioned in such notice; before a determination is had the corporation counsel shall serve a copy of such notice upon the holder of the transfer of tax lien which is thus questioned or which transfers the items thus questioned and shall give such holder an opportunity to be heard. The corporation counsel shall certify in writing his opinion upon the matters and questions raised by such notice, and if he concludes that a defense in an action to foreclose the tax lien would succeed in whole or in part he shall so certify, and shall recommend what action shall be taken by the city concerning the same. If the corporation counsel concludes that such defense would succeed in whole or in part and recommends repayment by the city of the amount paid for a transfer of tax lien which would be applicable to any item, he shall state the reasons for such recommendation, and if it be approved by the comptroller the city shall require the surrender of the transfer of tax lien or the retransfer to it of the item or items of tax lien which are found to be void or defective, and shall make repayment therefor in the same manner as if such transfer of tax lien, tax lien or items had been adjudicated in the manner provided in sections ten hundred and forty-three and ten hundred and forty-four. Neither the provisions of this section nor any act or proceeding thereunder shall impair or in any other manner affect the rights or remedies of any person interested in, or holding any lien upon, real property to question the validity of any tax, assessment, water rents or tax lien, or any part or item of any tax lien.

CORPORATION COUNSEL TO PROTECT INTEREST OF CITY.

§ 1046. No claim shall be made against the city under sections ten hundred and forty-three, ten hundred and forty-four or ten hundred and forty-five by the holder of any tax lien, unless action to foreclose the tax lien or transfer of tax lien upon which such claim is founded be commenced within five years from the time of the sale resulting in such transfer of tax lien. Nor shall any claim be made against the city under sections ten hundred and forty-three or ten hundred and forty-four, unless within ten days after the commencement of any action or proceeding to vacate, set aside or cancel a transfer of tax lien, or a tax lien or an item mentioned in a transfer of tax lien, or unless within

ten days after the service of any pleading or other paper in an action or proceeding in which any transfer of tax lien, or item mentioned in a transfer of tax lien, is brought into question, sought to be set aside, vacated, or canceled, or which sets forth or pleads any defense to an action to foreclose a tax lien, a notice in writing be served upon the corporation counsel setting forth the question or objection raised to the best knowledge of the holder of the transfer of tax lien, or his attorney at law, and demanding that the city take up the prosecution or defense of the action or proceeding. All proceedings in such action or proceeding shall be stayed for thirty days or such shorter time as the corporation counsel shall stipulate in writing. It shall be the duty of the corporation counsel to examine the questions raised, and, in order to protect the interests of the city, he shall have the right to be substituted for the attorney of record of the holder of the transfer tax lien, or to appear as attorney of record for the holder of any such transfer of tax lien, to conduct or defend any such action or proceeding in the name of the holder of the transfer of tax lien, and to bring any other action or proceeding for, on behalf of and in the name of the holder of such transfer of tax lien as he may deem advisable, to take appeals, and to argue appeals taken by the adverse party, as he may deem advisable. It shall be the duty of the corporation counsel to protect the interest of the city in all matters, actions and proceedings relating to tax liens and transfers of tax liens; to intervene on behalf of the city or of the holder of a transfer of tax lien in, or to make the city a party to any action in which he believes it to be to the interest of the city so to do, by reason of any matter arising under or relating to any tax lien or transfer of tax lien, or advertisement of sale of tax liens. In any action or proceeding in which the corporation counsel pursuant to this section shall be substituted, or shall appear, it shall be without expense to the holder of the transfer of tax lien, and all costs recovered on behalf of such holder of a transfer of tax lien in any action or proceeding conducted or defended by the corporation counsel shall belong to the city and shall be collected, applied and disposed of in the same manner as are other costs recovered by the city.

DEFECTIVE OR INVALID TRANSFER OF TAX LIEN; PROCEEDING ANEW.

§ 1047. If a transfer of tax lien be vacated or be set aside or canceled or if it be adjudged that a transfer of tax lien is invalid

or defective, or insufficient to transfer a tax lien to the purchaser thereof, or if in any action to foreclose a tax lien, it be adjudged that a tax lien is not a valid lien on the premises which it purports to affect, because of some irregularity in the proceedings had, and if, in pursuance of any such adjudication the purchaser of said transfer of tax lien shall have surrendered such transfer of tax lien to the collector of assessments and arrears and shall have been repaid by the city, the amount paid for such transfer of tax lien, with interest and costs and disbursements of the said action or proceeding in which such adjudication was made, then and in that event, the tax lien which was purported to be transferred and assigned in such transfer of tax lien shall remain as a valid lien upon the premises which it affects, except to such extent as it may have been adjudged irregular or invalid, and the collector of assessments and arrears shall proceed to sell anew, as provided in section ten hundred and twenty-seven of this act, so much of the said tax lien as is not invalid as if no prior sale purporting to transfer the said tax lien had taken place.

§ 19. Section ten hundred and fifty of such charter is hereby renumbered to be section ten hundred and forty-eight, and is hereby amended to read as follows:

LOST TRANSFER OF TAX LIEN DELIVERY OF DUPLICATE IN CASE OF.

§ 1048. Whenever any transfer of tax lien given by the collector of assessments and arrears, as in this title provided, shall be lost, the comptroller may receive evidence of such loss, and on satisfactory proof of the fact may direct the collector of assessments and arrears to execute and deliver a duplicate to such person or persons who shall appear entitled thereto, and may also, in his discretion, require a bond of indemnity to the city of New York.

§ 20. Section ten hundred and fifty-one of such charter is hereby renumbered to be section ten hundred and forty-nine, and is hereby amended to read as follows:

BILLS OF ARREARS OF TAXES AND ASSESSMENTS TO BE FURNISHED WHEN REQUESTED.

§ 1049. The collector of assessments and arrears, upon the requisition of the owner, the proposed vendee under a contract of sale, a mortgagee, or any person having a vested or contingent

interest in any lot or lots, or their duly authorized agent, shall furnish a bill of all arrears of taxes, and of taxes with the "water rents" added on any lot or lots due prior to the first of June, then last past, and of assessments which are due and payable; and upon the payment of the said bill (which shall be called a "bill of arrears of assessments, taxes and water rents,") his receipt thereon, countersigned by the comptroller, shall be conclusive evidence of such payment. The comptroller shall cause to be kept a duplicate account of amounts so collected, and the certificate of the collector of assessments and arrears, countersigned by the comptroller, that there are no tax liens on said lot or lots, shall forever free the said lot or lots from all liens of taxes, or for taxes with water rates added, or for rents of water added to the taxes prior to the first of June then last past, and for all assessments due and payable prior to the date of the said receipt or certificate, but not from the lien of any tax lien duly sold.

§ 21. Section ten hundred and fifty-two of such charter is hereby renumbered to be section ten hundred and fifty.

§ 22. Section ten hundred and fifty-three of such charter is hereby repealed.

§ 23. Section ten hundred and fifty-four of such charter is hereby renumbered to be section ten hundred and fifty-one.

§ 24. This act shall not affect or impair any act done or right accruing, accrued or acquired, nor any penalty or forfeiture incurred prior to the time when this act takes effect, by virtue of any section of the Greater New York charter repealed, amended or modified by this act; but such right, penalty, or forfeiture, may be asserted, enforced, prosecuted or inflicted as fully and to the same extent as if this act had not been passed or said sections had not been amended, repealed or modified; no tax lease heretofore issued nor any tax sale heretofore made shall be affected by this act, but the rights of all persons, with respect thereto, shall be the same as if this act had not been passed, and all actions, suits, proceedings or prosecutions under the sections of title five of chapter seventeen of the Greater New York charter hereby amended, repealed or modified and pending when this act takes effect may be prosecuted and defended to final effect in the same manner as they might prior to the time when this act takes effect.

§ 25. This act shall take effect October first, nineteen hundred and eight.

Chap. 491.

AN ACT to amend the election law, in relation to the use of voting machines.

Became a law, May 23, 1908, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section one hundred and sixty-eight of chapter nine hundred and nine of the laws of eighteen hundred and ninety-six, entitled "An act in relation to the elections, constituting chapter six of the general laws" as added by chapter four hundred and sixty-six of the laws of eighteen hundred and ninety-nine and amended by chapter five hundred and thirty of the laws of nineteen hundred and one, is hereby amended to read as follows:

§ 168. **Sample ballots.**— The officers or board charged with the duty of providing ballots for any polling place shall provide therefor two sample ballots which shall be arranged in the form of a diagram showing the entire front of the voting machine as it will appear after the official ballots are arranged for voting on election day. Such sample ballots shall be open to public inspection at such polling place during the election day. In all general elections where voting machines are used there may be furnished a sufficient number of sample ballots of a reduced size, showing the key board of the voting machine as it will appear after the official ballots are arranged for voting on election day, with illustrations and brief instructions how to vote; one of which sample ballots may be mailed by the county clerk to each registered voter at least three days before the election or in lieu thereof, a copy of such sample ballot may be published for one week preceding the election in newspapers representing at least two political parties.

§ 2. Such chapter is hereby amended by adding thereto, after section one hundred and sixty-nine, four new sections, to be sections one hundred and sixty-nine-a, one hundred and sixty-nine-b, one hundred and sixty-nine-c and one hundred and sixty-nine-d, thereof, to read respectively as follows:

§ 169-a. **Preparation of voting machine for election.**— The board of officers having charge and control of matters pertaining

to elections in which voting machines are to be used, shall cause the proper ballot labels to be placed on the machines corresponding with the sample ballots herein provided for, and the machine in every way put in order, set, and arranged, ready for use in voting at such election; and, for the purpose of so labeling, putting in order, setting and arranging the machine, shall employ one or more competent persons who shall be known as the voting machine custodian, or custodians, who shall be sworn to perform their duties honestly and faithfully, and for such purpose shall be considered as officers of election, and shall be paid for the time spent in the discharge of their duties, in the same manner as election officers are paid. In counties where elections are in charge of a commissioner of elections, the commissioner and his deputy shall act as such custodians. In cities where there are more than twenty voting machines, more than one custodian shall be appointed. They shall be selected from the two political parties entitled to representation on a board of election officers. Said custodian, or custodians, shall, under the direction of said board or officer having charge and control of the election, cause the machine to be so labeled, put in order, set, arranged, and delivered to the polling place of the election district in which the election is to be held, together with all furniture and appliances necessary for the proper conducting of the election, at least one hour before the time set for opening the polls on election day. In preparing a voting machine for an election, the custodian shall, according to the printed directions furnished, arrange the machine and the ballots therefor so that it will in every particular meet the requirements for voting and counting at such election, and thoroughly test the same. Before preparing the voting machine for any election written notice shall be mailed to the chairman of the city, or town committee of at least three of the principal political parties, stating the time and place where machines will be prepared, at which time one representative of each of such political parties shall be afforded an opportunity to see that the machines are in proper condition for use in the election; such representatives shall be sworn to faithfully perform their duties and shall be regarded as election officials but shall not interfere with the custodians or assume any of their duties. When a machine has been so examined by such representatives it shall be sealed with a numbered metal seal. Such representatives shall certify: to the number of the machine; if

all of the counters are set at 000; and the number registered on the protective counter, if one is provided, and on the seal. After the preparation of the machines, an officer or officers or someone duly authorized, other than the person who has prepared them for the election, shall inspect each machine, and report in writing if all of the registering counters are set at zero (000), and the machine is arranged in all respects in good order for the election and locked, with the number registered on the protective counter, if one is provided; and with the number on the seal. When a voting machine has been properly prepared for election, it shall be locked against voting, and sealed; and the keys thereof shall be delivered to the board or official having charge and control of elections, together with a written report made by the custodian of the machine on blanks furnished to him, stating that it is in every way properly prepared for the election. All voting machines shall be transferred to the polling places in charge of an authorized official, who shall certify to their delivery in good order. After the machine has been delivered and set up ready for use in the election at the polling place, it shall be the duty of the local authorities to provide ample protection against molestation or injury to the machine. Every voting machine shall be furnished with a lantern, or a proper substitute for one, which shall give sufficient light to enable voters while in the booth to read the ballot labels, and suitable for use by the election officers in examining the counters. The lantern shall be prepared in good order for use before the opening of the polls. All voting machines used in any election shall be provided with a screen, hood, or curtain which shall be so made and adjusted as to completely conceal the voter and his action while voting. The provision of this subdivision shall not apply to the county of Monroe.

§ 169-b. **Instruction of election officers.**— Not later than the first day of October in each year, the custodian, or custodians, of the machine shall instruct each board of inspectors that is to serve in an election district in the use of the machine, and in the duties of inspectors of election in connection therewith; and he shall give to each inspector of election that has received such instruction and is fully qualified to properly conduct the election with the machine, a certificate to that effect. For the purpose of giving such instruction, the custodian shall call such meeting, or meetings, of the inspectors of election as shall be necessary;

but such meetings shall not be called earlier than seven o'clock in the afternoon. Such custodian shall without delay file a report with the board or official in charge of elections, stating that he has instructed the election officers, giving the names of such officers, and the time and place where such instruction was given. The inspectors of election of each election district in which a voting machine is to be used, shall attend such meeting, or meetings, as shall be called, for the purpose of receiving such instructions, concerning their duties as shall be necessary for the proper conduct of the election with the machine. Each inspector of election that shall qualify for and serve in the election, shall be paid one dollar for the time spent in receiving such instruction, in the same manner and at the same time as he is paid for his services on election day. No inspector of election shall serve in any election at which a voting machine is used, unless he shall have received such instruction and is fully qualified to perform his duties in connection with the machine, and has received a certificate to that effect from the custodian of the machines; provided, however, that this shall not prevent the appointment of an inspector of election to fill a vacancy in an emergency. The provisions of this subdivision shall not apply to the county of Monroe.

§ 169-c. **Instruction of voters before election.**— In all places where voting machines are to be used one or more of such machines which shall contain the ballot labels, showing the party emblems and title of offices to be voted for, and which shall so far as practicable contain the names of the candidates to be voted for, shall be placed on public exhibition in some suitable place, in charge of a competent instructor, for three days during the thirty days next preceding the election; but no voting machine which is to be assigned for use in an election shall be used for such public instruction within five days before the election. During public exhibition of any voting machine for the instruction of voters previous to an election, the counting mechanism thereof shall be concealed from view and the doors may be temporarily opened only when authorized by the board or official having charge and control of the elections. Printed instructions how to vote circulated to voters must conform to the instructions approved by the officials providing ballots, and adapted to the machine used.

§ 169-d. **Independent nominations.**— Two or more independent nominations may be placed upon the same party row and such candidates shall be voted for individually. The party lever in connection with such party row shall be locked whenever such party row does not contain the names of candidates of a party organization or the names of an independent body which may have nominated candidates for more than one office. The emblems adopted for such independent candidates shall be printed upon the ballot labels in connection with the names of such candidates.

§ 3. Section one hundred and seventy-one of such chapter, as added by chapter four hundred and sixty-six of the laws of eighteen hundred and ninety-nine, is hereby amended to read as follows:

§ 171. **Tally sheets.**— In each election district where voting machines are used, tally sheets shall be printed to conform with the type of voting machine used, of a form approved by the secretary of state. The designating number and letter on the counter for each candidate shall be printed next to the candidate's name on the tally sheets.

§ 4. Section one hundred and seventy-three of such chapter, as added by chapter four hundred and sixty-six of the laws of eighteen hundred and ninety-nine and amended by chapter five hundred and thirty of the laws of nineteen hundred and one, is hereby amended to read as follows:

§ 173. **Opening the polls; irregular ballots.**— The inspectors of election and poll clerks of each district shall meet at the polling place therein, at least three-quarters of an hour before the time set for the opening of the polls at each election, and shall proceed to arrange within the guard rail the furniture, stationery and voting machine for the conduct of the election. The inspectors of election shall then and there have the voting machine, ballots and stationery required to be delivered to them for such election; and if it be an election at which registered voters only can vote, the registry of such electors required to be made and kept therefor. The inspectors shall thereupon cause at least two instruction cards, and if printed in different languages, at least two of each language to be posted conspicuously within the polling place. If not previously done, they shall insert in their proper place on the voting machine, the ballots containing

the names of offices to be filled at such election, and the names of candidates nominated therefor. The keys to the voting machine shall be delivered to the election officers three-quarters of an hour before the time set for opening the polls in a sealed envelope, on which shall be written or printed the number and location of the voting machine; the number on the seal; and, if provided with a protective counter, the number registered on such counter, as reported by the custodian. The envelope containing the keys shall not be opened until at least one inspector from each of two political parties shall be present at the polling place and shall have examined the envelope to see that it has not been opened. Before opening the envelope all election officers present shall examine the number on the seal on the machine, also the number registered on the protective counter, if one is provided, and shall see if they are the same as the numbers written on the envelope containing the keys. If found not to agree, the envelope must not be opened until the custodian, or other authorized person, shall have been notified and shall have presented himself at the polling place for the purpose of re-examining such machine and shall certify that it is properly arranged. If the numbers on the seal and protective counter, if one is provided, are found to agree with the numbers on the envelope the inspectors shall proceed to open the doors concealing the counters. Before the polls are open for election, each inspector shall carefully examine every counter and see that it registers zero, and the same shall be subject to the inspection of the official watchers. The machine shall remain locked against voting until the polls are formally opened and shall not be operated except by electors in voting. If any counter for a candidate is found not to register zero (000), the inspectors of election shall immediately notify the custodian, who shall adjust the counter at zero. Ballots voted for any person whose name does not appear on the machine as a nominated candidate for office, are herein referred to as irregular ballots. Where two or more persons are to be elected to the same office, and each candidate's name is placed upon or adjacent to a separate key or device, and the machine requires that all irregular ballots voted for that office be deposited, written or affixed in or upon a single receptacle or device, an elector may vote in or by such receptacle or device for one or more persons whose names do not appear upon the machine with or without

the names of one or more persons whose names do so appear. In voting for presidential electors, an elector may vote an irregular ticket made up of the names of persons in nomination by different parties, or partially of names of persons so in nomination and partially of names of persons not in nomination, or wholly of names of persons not in nomination by any party. Such irregular ballot shall be deposited, written or affixed in or upon the receptacle or device provided on the machine for that purpose. With these exceptions, no irregular ballot shall be voted for any person for any office whose name appears on the machine as a nominated candidate for that office; any irregular ballot so voted shall not be counted. An irregular ballot must be cast in its appropriate place on the machine, or it shall be void and not counted.

§ 5. Section one hundred and seventy-four of such chapter, as added by chapter four hundred and sixty-six of the laws of eighteen hundred and ninety-nine, is hereby amended to read as follows:

§ 174. **Location of machines; guard rail.**— The exterior of the voting machine and every part of the polling place shall be in plain view of the election officers and watchers. The voting machine shall be placed at least four feet from the poll clerk's table. A guard rail shall be constructed at least three feet from the machine, with opening to admit electors to and from the machine. The voting machine shall be so located in the polling place that, unless its construction requires otherwise, the ballot labels on the face of the machine can be plainly seen by the election officers and the party watchers when not in use by voters. The election officers shall not themselves be, or permit any other person to be, in any position or near any position, that will permit one to see or ascertain how a voter votes, or how he has voted. The election officer attending the machine shall inspect the face of the machine after each voter has cast his vote, to see that the ballot labels are in their proper places and that the machine has not been injured. During elections the door or other covering of the counter compartment of the machine shall not be unlocked or opened or the counters exposed except for good and sufficient reasons, a statement of which shall be made and signed by the election officers and shall be sent with the returns.

§ 6. Section one hundred and seventy-eight of such chapter, as added by chapter four hundred and sixty-six of the laws of

eighteen hundred and ninety-nine and amended by chapter six hundred and fifty-four of the laws of nineteen hundred and seven, is hereby amended to read as follows:

§ 178. **Canvass of vote and proclamation of result.**— There shall be printed directions in the statement of canvass to the election officers for their guidance before the polls are opened and when the polls are closed; a certificate which shall be signed by the election officers before the polls are opened, showing the delivery of the keys in a sealed envelope; the number on the seal; the number registered on the protective counter, if one is provided; if all of the counters are set at zero (000); if the public counter is set at zero (000); if the ballot labels are properly placed in the machine. Also a certificate which shall be filled out after the polls have been closed, that the machine has been locked against voting and sealed; the number of voters as shown on the public counter; the number on the seal; the number registered on the protective counter, if one is provided; and that the voting machine is closed and locked. The inspectors' return and statement of canvass shall show the total number of votes cast for each office, the number of votes cast for each candidate, as shown on his counter, and the number of votes for persons not nominated, which shall be certified by the board of inspectors. As soon as the polls of the election are closed, the inspectors of election thereat shall immediately lock the voting machine against voting, and open the counting compartments in the presence of the watchers and all other persons who may be lawfully within the polling place, giving full view of all the counter numbers. The chairman of the board of inspectors shall, under the scrutiny of an inspector of a different political party, in the order of the offices as their titles are arranged on the machine, read and announce in distinct tones the designating number and letter on each counter for each candidate's name, the result as shown by the counter numbers, and shall then read the votes recorded for each office on the irregular ballots. He shall also in the same manner announce the vote on each constitutional amendment, proposition or other question. Where the counters of a candidate, who has been nominated more than once for an office to which two or more persons are to be elected, are coupled for simultaneous action so that the vote counted by any one of the counters of such candidate will also be counted by the other counters of such candidate, the record of the vote on but one of

such counters shall be taken, and the record of the vote on the other counters shall not be taken but shall be entered as (000). The counters of a candidate who has been nominated more than once for an office to which but one person is to be elected shall not be coupled for simultaneous action and the record of the vote on each counter of such candidate shall be taken and added together. The counter shall not in any case be read consecutively along the party row or column, but shall always be read along the office columns or rows, completing the canvass for each office before proceeding to the next, and the vote as registered shall be entered by the clerks on both of the tally sheets in ink, in the same order on the space which has the same designating number and letter. After copying the vote from the tally sheets onto the statement of canvass, the figures shall be verified by being called off in the same manner from the counters of the machine by an inspector of a different political party. The counter compartment of the voting machine shall remain open until the statement of canvass and all other reports have been fully completed and signed by the election board. During such time any candidate, watcher, or challenger of any party or independent body duly accredited as provided by section one hundred and two of the election law who may desire to be present shall be admitted to the polling place. The proclamation of the result of the votes cast shall be deliberately announced in a distinct voice by the chairman of the board of inspectors who shall read the name of each candidate, with the designating number and letter of his counter, and the vote registered on such counter; also the vote cast for and against each question submitted. During such proclamation ample opportunity shall be given to any person lawfully present to compare the results so announced with the counter dials of the machine and any necessary corrections shall then and there be made by the election board, after which the doors of the voting machine shall be closed and locked. Before adjourning the board shall, with the seal provided therefor, so seal the operating lever of the machine that the voting and counting mechanism will be prevented from operation.

§ 7. Section one hundred and seventy-nine of such chapter, as added by chapter four hundred and sixty-six of the laws of eighteen hundred and ninety-nine and amended by chapter five hundred and thirty of the laws of nineteen hundred and one, is hereby amended to read as follows:

§ 179. **Disposition of irregular ballots, and preserving the record of the machine.**— The inspectors of election shall, as soon as the count is completed and fully ascertained as in this act required, lock the machine against voting, and it shall so remain for the period of thirty days, except by order of a court of competent jurisdiction, or as hereinafter provided. Whenever irregular ballots have been voted, the inspectors shall return all of such ballots in a properly secured sealed package endorsed "irregular ballots," and file such package with the original statement of canvass. It shall be preserved for six months after such election, and may be opened and its contents examined only upon order of the supreme court or a justice thereof, or a county judge of such county, and at the expiration of such time, such ballots may be disposed of in the discretion of the officer or board having charge of them.

§ 8. Such chapter is hereby amended by adding thereto after section one hundred and seventy-nine thereof, two new sections, to be sections one hundred and seventy-nine-a and one hundred and seventy-nine-b thereof, to read respectively, as follows:

§ 179-a. **Disposition of keys; opening counter compartment.**— The keys of the machine shall be enclosed in an envelope which shall be supplied by the officials, on which shall be written the number of the machine and the district and ward where it has been used, which shall be securely sealed and endorsed by the election officers, and shall be so returned with the two extra copies of inspectors' returns, which shall be sealed, to the clerk of the city, or the town. The number on the seal and number registered on the protective counter, if so provided, shall be written on the envelope containing the keys. All keys for voting machines shall be kept securely locked by the officials having them in charge. It shall be unlawful for any unauthorized person to have in his possession any key or keys of any voting machine; and all election officers, or persons entrusted with such keys for election purposes, or in the preparation of the machine therefor, shall not retain them longer than necessary to use them for such legal purpose. All machines shall be boxed and collected as soon after the close of the election as possible, and the machines, and the boxes for the machines, shall at all times be stored in a suitable place.

§ 179-b. **Provision for re-canvass of vote.**— Whenever it shall appear that there is a discrepancy in the returns of any election

district, the county board of canvassers shall summon the inspectors of election thereof and said inspectors shall, in the presence of said board of canvassers, or a bi-partisan committee thereof, make a record of the number on the seal and the number on the protective counter, if one is provided, open the counter compartment of said machine, and without unlocking said machine against voting, shall re-canvass the vote cast thereon. Before making such re-canvass the county board of canvassers shall give notice in writing to the custodian and to the county chairman of each political party or nominating body that shall have nominated candidates for the election, of the time and place where said re-canvass is to be made; and each of such political parties or nominating bodies may send two representatives to be present at such re-canvass. If, upon such re-canvass, it shall be found that the original canvass of the returns has been correctly made from the machine, and that the discrepancy still remains unaccounted for, the county board of canvassers, or said committee thereof, with the assistance of the custodian of said machine, shall, in the presence of the inspectors of election and the authorized representatives of the several said political parties or nominating bodies, unlock the voting and counting mechanism of said machine and shall proceed to thoroughly examine and test the machine to determine and reveal the true cause or causes, if any, of the discrepancy in the returns from said machine. Before testing the counters they shall be reset at zero (000) after which each counter shall be operated at least one hundred times. After the completion of said examination and test, the custodian shall then and there prepare a statement in writing giving in detail the result thereof, and said statement shall be witnessed by the persons present and shall be filed with the secretary of the county board of canvassers.

§ 9. Sections one hundred and eighty and one hundred and eighty-three of such chapter, as added by chapter four hundred and sixty-six of the laws of eighteen hundred and ninety-nine, are hereby amended to read, respectively, as follows:

§ 180. **Application of other articles and penal code.**— The provisions of the other articles of this chapter apply so far as practicable to voting by voting machines, except as herein provided. The provisions of the penal code and of this chapter relating to misconduct at elections shall apply to elections with voting machines. Any person who shall before or during an

election tamper with any voting machine; or who shall interfere or attempt to interfere with the correct operation of the voting machine, or the secrecy of voting; or shall wilfully injure a voting machine to prevent its use; or, any election or police officer, or anyone employed to assist in the care or arrangement of the voting machine, who shall permit any person to violate the secrecy of the voting, or to interfere in any way with the correct operation of the voting machine; or any unauthorized person who shall make or have in his possession a key to a voting machine that has been adopted and will be used in elections in this state shall be guilty of a felony, punishable by imprisonment in a state prison for not less than one year nor more than five years.

§ 183. **Definitions.**— The list of candidates used or to be used on the front of the voting machine shall be deemed official ballots under this chapter for an election district in which a voting machine is used pursuant to law. The word "ballot" as used in this article, (except when reference is made to irregular ballots) means that portion of the cardboard or paper or other material within the ballot frames containing the name of the candidate for office, or a statement of proposed constitutional amendment, or other question or proposition with the word "Yes" for voting for any question or the word "No" for voting against any question. The term "question" shall mean any constitutional amendment, proposition, or other question, submitted to the voters at any election. The term "ballot label" shall mean the printed strips of cardboard containing the names of the offices and the candidates nominated by each party, and the questions submitted. The term "irregular ballot" shall mean a vote cast, by or on a special device, for a person whose name does not appear on the ballot labels. The term "voting machine custodian" shall mean the person who shall have charge of preparing and arranging the voting machines for elections. The term "protective counter" shall mean a separate counter built into the voting machine, which cannot be reset, which records the total number of movements of the operating lever.

§ 10. This act shall take effect immediately.

Chap. 492.

AN ACT to provide for a commissioner of elections in and for the county of Onondaga.

Became a law, May 23, 1908, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. **Office of commissioner of elections created.**— There shall be a commissioner of elections in and for the county of Onondaga, to be appointed by the board of supervisors thereof. The term of office of the commissioner shall be six years, unless sooner removed for cause. Whenever a vacancy shall occur the board of supervisors shall appoint a successor. If such vacancy shall occur otherwise than by expiration of term, the term of office of the successor so appointed shall be for the balance of the unexpired term. The commissioner shall be a resident elector of said county and shall receive such salary as shall be fixed by said board.

§ 2. **Subordinates.**— The commissioner may appoint a secretary and such other subordinates as the board of supervisors may determine who shall receive such salaries or compensation as shall be fixed by said board.

§ 3. **Official undertaking.**— The commissioner shall, before entering upon the discharge of the duties of his office, execute and file with the county clerk an official undertaking conditioned upon the faithful discharge of the duties of his office, in such sum as shall be prescribed by the board of supervisors; such undertaking to be approved as to form and validity by the county attorney and as to the sufficiency of the sureties by said board.

§ 4. **Powers and duties of commissioner.**— The commissioner shall have and exercise all of the jurisdiction, power and authority conferred and be subject to all of the duties and obligations imposed by statute upon all officers of the county and its political subdivisions with respect to general, special and primary elections and submission of questions or propositions held within such county and its political subdivisions, other than in villages and school districts, except the appointment, powers and duties of inspectors of election, poll clerks and ballot clerks. The commissioner shall be the custodian of primary records for said county and the secretary of the county board of canvassers.

§ 5. **Custody of records.**—All books, documents, papers, records and election appliances and appurtenances in the possession and under the control of any officer of said county or political subdivision thereof relating to or used in the conduct of such elections or submission of questions or propositions shall, upon his request, be transferred to and remain under the care, custody and control of the commissioner.

§ 6. **Notices.**—All notices required to be given by the secretary of state to any officer of said county, relative to any such election or submission of questions or propositions shall be directed and given to the commissioner. All notices pertaining to any such election or submission of questions or propositions required to be given, published, advertised or posted in said county or political subdivision thereof shall be given, published, advertised or posted by or under the direction of the commissioner.

§ 7. **Filing papers.**— All certificates of nomination for officers to be voted for and questions or propositions submitted to be voted upon, declinations of nomination for office, certificates of nomination to fill vacancy, statements of candidate's expenses, rules and regulations of political parties and other papers, documents and records pertaining to the conduct of any such election or submission of questions or propositions required by statute to be filed with any officer of said county, or political subdivision thereof shall hereafter be filed with the commissioner. All papers and records required by this act to be filed with the commissioner and now filed in the office of the county clerk or city clerk of Syracuse shall be transferred to and become a part of the records of the office of the commissioner.

§ 8. **Election supplies and expenses.**— All election supplies and appliances and repairs and alterations thereto shall be purchased, made and furnished by the commissioner. The expenses for supplies, advertising, posting and circulating of election notices, making written and printed lists of registered enrolled voters and other expenses pertaining to any such election, except the compensation of inspectors of election, poll clerks and ballot clerks, shall be a charge against the county of Onondaga or political subdivisions thereof as provided by statute, and shall be certified by the commissioner and be audited and paid in the same manner as other claims against said county or political subdivisions.

§ 9. **Canvass and statements of result.**— The several boards of inspectors of election in said county shall, upon the completion of

the canvass of any such election make and sign an original statement of the result thereof and two certified copies of the same, in the manner provided by the election law. One of such certified copies, one tally sheet and one poll list shall be filed forthwith by one inspector, deputed for that purpose, with the town clerk of the town, or the city clerk of the city of Syracuse, as the case may be, and the other certified copy shall be filed with the supervisor of the town or ward, as the case may be. In a town one registry list and the box containing the voted ballots shall be delivered to the town clerk. The original statement of the result of the canvass, together with one tally sheet, all void and protested ballots and any and all other matters required by statute to be filed or delivered by the board of election inspectors to any officer, shall within twenty-one hours after the completion of such canvass, be filed and delivered by the chairman of each board of inspectors with the commissioner. The commissioner shall, within ten days, after the completion of the canvass by the board of canvassers cause a tabulated statement of the result to be made, certified and filed in his office. He shall also cause a certificate as to the persons declared by the county board of canvassers elected and questions or propositions adopted to be filed with the county clerk and clerk of the board of supervisors and a like certificate to be filed with the clerk of each town or city as to the election of officers or adoption of questions or propositions therein. The commissioner shall retain in his possession all registry, enrollment and poll books, filed in his office, for three years subsequent to the election at which they are used, at the expiration of which period he may destroy or otherwise dispose of the same.

§ 10. **Limitations of act.**— The provisions of this act, however, shall not affect or limit the powers or duties of any board, body or officer of said county or political subdivision thereof, in relation to the designation of polling places nor to the distribution of election supplies in towns.

§ 11. **Construction of act.**— This act is intended to be and shall be deemed and held in all courts and jurisdictions to be a public act, of which the courts shall take judicial notice. It shall be construed not as an act in derogation of the powers of the state but as one intended to aid the state in the execution of its duties, and shall be liberally construed so as to carry into effect its objects and purposes. Its provisions, so far as they are substantially the same, or cover the same subject-matter, as those of any law re-

pealed hereby, shall be construed as a continuance of such repealed law, modified or amended, according to the language employed herein and not as new enactments. The meaning and effect of the terms and language used herein shall be construed in accordance with the provisions of the statutory construction law. Nothing in this act shall be construed to amend or repeal any provision of the penal or criminal code.

§ 12. **Saving clause.**— The repeal of a law, or any part of it, by the provisions of this act, shall not affect or impair any act done or right accruing, accrued or acquired, or penalty, forfeiture or punishment incurred, prior to the time when this act takes effect, under or by virtue of the law so repealed, but the same may be asserted, enforced, prosecuted or inflicted as fully and to the same extent as if such law had not been repealed; and all actions or proceedings, civil or criminal, commenced under or by virtue of any law so repealed and pending when this act takes effect, may be prosecuted and defended to final effect in the same manner as they might under any such law so repealed.

§ 13. **Laws repealed.**—All acts or parts of acts, in so far as inconsistent with the provisions of this act, are hereby repealed.

§ 14. This act shall take effect immediately.

Chap. 493.

AN ACT authorizing the Marcellus and Otisco Lake Railway Company to use locomotive steam power as a motive power, upon certain conditions.

Became a law, May 23, 1908, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The Marcellus and Otisco Lake Railway Company in the county of Onondaga may, if the approval in writing of the public service commission in the second district be obtained, use locomotive steam power as a motive power upon its railroad as now constructed, provided, however, that said company shall observe and comply with all rules and regulations with regard to operation and all requirements as to construction or as to removal of grade crossings, which may be made from time to time, by said

public service commission and provided also that the consent of the owners of two-thirds in value of the property bounded on, and the consent also of the local authorities having the control of, that portion of a street or highway upon which it is proposed to so operate such railroad be first obtained, or in case the consent of such property owners cannot be obtained, the appellate division of the supreme court in the department in which said railroad is located may upon application appoint three commissioners who shall determine, after a hearing of all parties interested, whether such railroad ought to be so operated, and their determination, confirmed by the court, may be taken in lieu of the consent of the property owners. The consents of the property owners and local authorities shall be obtained and the proceedings for the appointment and determination of the commissioners and the confirmation of their report shall be conducted in the manner prescribed in sections ninety-one, ninety-two and ninety-four of the railroad law so far as the same can properly be made applicable thereto.

§ 2. The right to repeal this law is expressly reserved and all authority to said road to use locomotive steam power as a motive power may be revoked at any time, either by said public service commission or by any other authority to whom jurisdiction in the premises may be given by the legislature.

§ 3. This act shall take effect immediately.

Chap. 494.

AN ACT authorizing the Newark and Marion Railway Company to use locomotive steam power as a motive power.

Became a law, May 23, 1908, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The Newark and Marion Railway Company in the county of Wayne may, if the approval in writing of the public service commission, second district, or its successor, be obtained, use locomotive steam power as a motive power upon its railroad as now constructed, provided, however, that said company shall observe and comply with all rules and regulations with regard to operation and all requirements as to construction or as to removal

of grade crossings, which may be made from time to time, by said public service commission, or its successor, and provided also that the consent of the owners of two-thirds in value of the property bounded on, and the consent also of the local authorities having the control of, that portion of a street or highway upon which it is proposed to so operate such railroad be first obtained, or in case the consent of such property owners cannot be obtained, the appellate division of the supreme court in the department in which said railroad is located may, upon application, appoint three commissioners who shall determine, after a hearing of all parties interested, whether such railroad ought to be so operated, and their determination, confirmed by the court, may be taken in lieu of the consent of the property owners. The consents of the property owners and local authorities shall be obtained and the proceedings for the appointment and determination of the commissioners and the confirmation of their report shall be conducted in the manner prescribed in sections ninety-one, ninety-two and ninety-four of the railroad law so far as the same can properly be made applicable thereto.

§ 2. The right to repeal this law is expressly reserved and all authority to said road to use locomotive steam power as a motive power may be revoked at any time, either by said public service commission or by any other authority to whom jurisdiction in the premises may be given by the legislature.

§ 3. This act shall take effect immediately.

Chap. 495.

AN ACT to amend chapter five hundred and eighty of the laws of nineteen hundred and two, entitled "An act in relation to the municipal court of the city of New York, its officers and marshals," in relation to procedure in certain actions.

Became a law, May 23, 1908, with the approval of the Governor. Passed, three-fifths being present.

Accepted by the City.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The opening paragraph, preceding subdivision one, of section one hundred and forty-five of chapter five hundred and

eighty of the laws of nineteen hundred and two, entitled "An act in relation to the municipal court of the city of New York, its officers and marshals," is hereby amended to read as follows:

§ 145. **Pleading on joinder of issue.**— Pleadings in the municipal court of the city of New York, may be oral or written, verified or unverified, except as prescribed in section thirty-four hundred and four of the code of civil procedure, and include a complaint, answer or demurrer.

§ 2. Section one hundred and forty-seven of such chapter is hereby amended to read as follows:

§ 147. **Plaintiff to prove his case; exceptions.**— If a defendant fails to appear and answer, the plaintiff cannot recover without proving his case, except in a case specified in section thirty-four hundred and six of the code of civil procedure. and excepting that where the action is on a contract, express or implied, and a copy of a verified complaint was served on defendant at the time of the service of the summons, judgment may be taken as demanded without further proof.

§ 3. Section two hundred and sixty of such chapter, as amended by chapter one hundred and forty-four of the laws of nineteen hundred and three, is hereby amended to read as follows:

§ 260. **How issued.**—An execution may be issued on a judgment of the municipal court at the option of the judgment creditor, either by the county clerk directed to the sheriff as prescribed by law, after the filing of a transcript of judgment, as provided in the next section, or by the clerk of the municipal court in the district in which the judgment was entered, within six years thereafter, directed to a marshal. But no execution shall issue out of the municipal court after a transcript has been issued, and no transcript shall be issued while an execution of the municipal court remains unreturned, except a transcript showing that a judgment has been vacated, set aside or modified. The prospective fees of the county clerk and sheriff must be omitted when an execution is issued to a marshal. The execution, when issued by the county clerk upon a judgment in an action to foreclose a mechanic's lien, shall authorize and direct the sheriff to sell the right, title and interest of the owner in the premises, upon which the lien set forth in the complaint existed at the time of filing the notice of lien.

§ 4. Section two hundred and sixty-one of such chapter is hereby amended to read as follows:

§ 261. **Transcript, how to issue; judgment of supreme court, when docketed.**— The clerk of the court in the district in which a judgment is rendered must, upon the application of the party in whose favor the judgment was rendered, deliver to him a transcript of the judgment, except as provided in the last section. In an action brought to foreclose a mechanic's lien, if judgment be rendered in favor of plaintiff, said clerk shall insert in said transcript, in addition to the matters required to be inserted in other transcripts, a statement that the action was brought to foreclose a mechanic's lien and that said lien has been duly established and adjudged against the interest of the defendant in the property described in the complaint at the time of the filing of the notice of lien. The county clerk of the county in which the judgment was rendered, must, upon the presentation of the transcript and payment of the fees therefor, indorse thereupon the date of its receipt, file it in his office, and docket the judgment, as of the time of the receipt of the transcript, in a book kept by him for that purpose, as prescribed by law, and if the judgment be one which is rendered for the recovery of a chattel which has been delivered to the unsuccessful party, or for the value thereof, or for the foreclosure of a mechanic's lien, must also enter in the docket the particulars of the judgment as stated in the transcript. Thenceforth the judgment is deemed a judgment of the supreme court and may be enforced accordingly. But nothing in this section shall be construed to prevent the municipal court from vacating, setting aside or modifying the judgment as hereinbefore provided.

§ 5. Subdivision eleven of section one of such chapter, as amended by chapter five hundred and thirteen of the laws of nineteen hundred and five, is hereby amended to read as follows:

11. An action to enforce a mechanic's lien on real property in which the court shall have power to render judgment for the sum due, with interest thereon from the date of the filing of the lien, costs of the action and all prospective fees, and to declare the amount a valid lien against the interest of the defendant in the property described in the complaint, at the time of the filing of the lien, where the amount does not exceed five hundred dollars, exclusive of interest and cost, but said court cannot render judgment for the foreclosure and sale of the property.

§ 6. This act shall take effect September first, nineteen hundred and eight.

Chap. 496.

AN ACT creating the office of purchasing agent for the county of Herkimer, and prescribing his powers and duties.

Became a law, May 23, 1908, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. On or before the first day of July, nineteen hundred and eight, and biennially thereafter the county judge, the county clerk and the chairman of the board of supervisors of the county of Herkimer shall appoint by certificate in writing under their hands to be filed in the office of the clerk of said county, a purchasing agent, who shall serve for a term of two years, to be paid at a rate to be determined by the county judge, the county clerk and chairman of the board of supervisors of said county until the same shall be fixed by the board of supervisors at an annual meeting. The county of Herkimer shall provide an office for the purchasing agent and the necessary books and stationery therefor. The purchasing agent shall receive an annual salary to be fixed by the board of supervisors, and payable as other county salaries are paid. The purchasing agent shall give a bond to the county in the sum of ten thousand dollars, conditioned for the faithful performance of his duties, which bond shall be approved as to its form and the sufficiency of sureties by the county judge.

§ 2. The purchasing agent shall make all purchases, and all contracts for supplies, of every nature, for the county or for any county department, office, official, building or institution, or for which the county shall in any way be liable. In case any such purchase or contracts shall involve any expense exceeding two hundred dollars, it shall be let to the lowest responsible bidder, who in case of a contract must give adequate security, if required, after public notice for at least three consecutive days in the daily newspapers of the county.

§ 3. All supplies furnished at the county's expense, except such as are delivered to the purchasing agent, shall be receipted for by the official, or the head of the department or office to which they are delivered, and such receipt shall accompany the sworn statement and bill when presented to the purchasing agent. No supplies shall be delivered except as specifically ordered by the

purchasing agent. No supplies shall be delivered by the purchasing agent to any person, official, department, or institution, except on the requisition in writing from the county official desiring the same, or in charge of the department or institution for which the same are required.

§ 4. The purchasing agent shall, when requested by the board of supervisors of said county, furnish to the board of supervisors a detailed statement showing all purchases or contracts made by him, the quantity, price and total charge of each, and all supplies delivered and to what official, department or institution delivered. The board of supervisors shall not audit or pay any bill for supplies unless it shall fully appear that said supplies were ordered by the purchasing agent, and a bill therefor duly sworn to be presented to the board by the purchasing agent indorsed with his approval. All requisitions received by the purchasing agent shall be filed in his office, and shall be open to the public under reasonable regulations for their safety and preservation.

§ 5. This act shall take effect immediately.

Chap. 497.

AN ACT to amend chapter one hundred and six of the laws of eighteen hundred and ninety-one, entitled "An act to revise, consolidate and amend the several acts relating to the village of Mechanicville, and to repeal certain acts," in relation to the powers, duties and compensation of the street commissioner of said village.

Became a law, May 23, 1908, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section five of title seven of chapter one hundred and six of the laws of eighteen hundred and ninety-one, entitled "An act to revise, consolidate and amend the several acts relating to the village of Mechanicville, and to repeal certain acts," is hereby amended to read as follows:

§ 5. The street commissioner shall be entitled to receive for his services such reasonable sum as the trustees shall direct for each

and every day actually spent in the performance and discharge of his duties, as in this act provided, to be paid out of the highway fund; but no compensation shall be allowed said commissioner for the use in the performance of his duties of any team or teams, vehicle or vehicles, tools or implements, owned by said commissioner at the time of such use, or in which he has at the time any pecuniary interest directly or indirectly; and no such team or teams, vehicles, tools or implements owned by such commissioner or in which he has such interest shall be employed by such commissioner at the expense of the village, in any work done in the performance of the duties of said commissioner, as in this act provided. And any claim presented against said village for compensation for the use of such team or teams or other articles in connection with the duties of the street commissioner shall be rejected and disallowed, if it appear that at the time of the employment or use of the same the said street commissioner had any pecuniary interest therein, directly or indirectly.

§ 2. This act shall take effect immediately.

Chap. 498.

AN ACT to amend chapter twenty-two of the laws of nineteen hundred and two, entitled "An act making the office of treasurer of Broome county a salaried office and regulating the management thereof," in relation to the times of the payment of the salary of the county treasurer.

Became a law, May 23, 1908, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section one of chapter twenty-two of the laws of nineteen hundred and two, entitled "An act making the office of treasurer of Broome county a salaried office and regulating the management thereof," is hereby amended to read as follows:

§ 1. The county treasurer of the county of Broome next elected or thereafter to be elected or appointed shall receive annually as compensation for his services and for the services of his deputy and all persons whom it may be necessary for him to employ to properly perform the duties of such office, and all work, labor and duties appertaining thereto, the sum of twenty-five hundred dol-

lars, payable monthly by said county treasurer. Such compensation shall not be increased or diminished during the term of office of any incumbent of said office hereafter elected or appointed.

§ 2. This act shall take effect immediately.

Chap. 499.

AN ACT to amend section three of chapter fifty-eight of the laws of eighteen hundred and ninety-three, entitled "An act in relation to the supreme court library, located at Binghamton, New York," in relation to the time of payment of the salary of the librarian.

Became a law, May 23, 1908, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section three of chapter fifty-eight of the laws of eighteen hundred and ninety-three, entitled "An act in relation to the supreme court library, located at Binghamton, New York," is hereby amended to read as follows:

§ 3. The salary of said librarian shall be paid monthly in each year, and the amount thereof shall be fixed in the month of October in each year for the following year by said justice, which shall be paid by the county of Broome, but shall not exceed six hundred dollars in any one year.

§ 2. This act shall take effect immediately.

Chap. 500.

AN ACT to amend the county law, in relation to the times when the salary of the county judge and surrogate of Broome county shall be paid.

Became a law, May 23, 1908, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section two hundred and twenty-three of article twelve of the county law is hereby amended to read as follows:

§ 223. **When and how paid.**—Such salaries, except in the counties of Kings and Broome, shall be paid quarterly, by the

county treasurer of the respective counties. In the county of Broome such salary shall be paid monthly by the county treasurer. When a county judge of one county shall hold a county court, or preside at a court of sessions, in any other county, he shall be paid the sum of five dollars per day for his expenses in going to and from, and holding or presiding at such court, which shall be paid by the county treasurer of such other county, on the presentation of the certificate of the clerk of such court of the number of days.

§ 2. This act shall take effect immediately.

Chap. 501.

AN ACT to amend the poor law, in relation to charges for hospital accommodations for indigent persons, in the counties of Nassau and Suffolk.

Became a law, May 23, 1908, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section thirty of chapter two hundred and twenty-five of the laws of eighteen hundred and ninety-six, entitled "An act in relation to the poor, constituting chapter twenty-seven of the general laws," as added by chapter one hundred and three of the laws of nineteen hundred and one, is hereby amended to read as follows:

§ 30. **Hospital accommodations for indigent persons.**— In all counties of this state in which there are not adequate hospital accommodations for indigent persons requiring medical or surgical care and treatment, or in which no appropriations of money are made for this specific purpose, it shall be the duty of county superintendents of the poor, upon the certificate of a physician approved by the board of supervisors, or of the overseers of the poor in the several towns of such counties, upon the certificate of a physician approved by the supervisor of the town, as their jurisdiction over the several cases may require, to send all such indigent persons requiring medical or surgical care and treatment to the nearest hospital, the incorporation and management of which have

been approved by the state board of charities, provided transportation to such hospital can be safely accomplished. The charge for the care and treatment of such indigent persons in such hospitals, as herein provided, shall not exceed one dollar per day for each person, except that in the counties of Nassau and Suffolk a charge of not to exceed two dollars per day may be made therefor, which shall be paid by the several counties or towns from which such persons are sent, and provision for which shall be made in the annual budgets of such counties and towns.

§ 2. This act shall take effect immediately.

Chap. 502.

AN ACT to amend the code of civil procedure, in relation to the conveyance of real estate by executors and administrators, in certain cases.

Became a law, May 23, 1908, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The code of civil procedure is hereby amended by adding thereto, after section twenty-eight hundred and one thereof, a new section to be section twenty-eight hundred and one-a, to read as follows:

§ 2801-a. When a person dies seized of the legal title to lands in this state, and another person claims to hold the beneficial interest in an executory contract made by the decedent for the sale and conveyance of such lands to the vendee therein named, or to his successors in interest, the execution and delivery of a deed of such real estate by the executor or administrator of the decedent's estate, to the holder of said contract, having the effect of conveying all of the right, title and interest of the decedent at the time of his death in and to said lands, may be authorized and compelled upon the application of such executor or administrator, upon the conditions and in the manner hereinafter provided. Upon receiving written notice of any such claim, subscribed by the claimant and requesting that proceedings be instituted under the provisions of this section, and containing particulars as to the date of the contract, the amount of the purchase price, the time or times when installments thereof were or will

become due and payable, the sum, if any, admitted to be still due or unpaid thereon, a description of the lands in question and a statement of any other condition applying to the vendee, the executor or administrator may, in his discretion, apply to the surrogate from whose court his letters were issued, for an order authorizing and directing him to execute a deed of such lands to the person entitled thereto upon such terms as the court may prescribe. The executor or administrator may, in his discretion, accept from the claimant a deposit of money to secure the estate for any costs and expenses of the application; such money to be retained by the executor or administrator to the extent of any costs or expenses thus paid or incurred only in the event that the claimant neglects unreasonably to tender performance of his part of the contract, or to be ready and willing to perform when requested, pursuant to the order, if any, to be entered on such application. The application shall be by petition, duly verified, which shall set forth the facts hereinabove provided to be contained in said notice, and such other facts in relation to said matter as may have come to the knowledge of the executor or administrator, together with the names of the decedent's heirs, devisees and surviving husband or wife, if any, and of all persons claiming under them or either of them, so far as known, and shall pray for a citation to all such heirs, devisees, wife, widow or persons, requiring them to show cause before said surrogate why an order should not be entered authorizing such conveyance. Upon the return of such citation and after hearing the proofs in support of the petition, or in opposition thereto, the surrogate shall make such order as justice requires. If it is found that the enforcement of said contract at law would be subject to a valid defense, in favor of any party to said proceeding, the petition shall be dismissed. If it is found that such contract is valid and in force and that the vendor had not, in his lifetime, effectually conveyed his interest in said lands in fulfillment thereof, the order shall direct such conveyance to be made by the executor or administrator, upon receiving the balance of the purchase price, when due, if there be any such unpaid balance, which amount shall be specified in the order, or upon the compliance by the claimant with any other condition imposed on him by the contract. Under such order, if the purchase money on the contract is not due and the claimant elects to pay the whole amount thereof, before maturity, the executor or administrator

shall receive the same and shall thereupon execute and deliver the deed hereinabove provided for. A conveyance made in pursuance of such order shall be binding on all of said persons in interest who were duly cited in the proceeding. An order dismissing the petition shall not prejudice the right of the claimant under said contract to a civil action for specific performance nor to any other remedy then existing at law or in equity; but the delivery and acceptance of a deed of conveyance executed in pursuance of an order granted as prescribed in this section shall be deemed a complete fulfillment of such contract. An order directing a conveyance under the provisions of this section may be enforced, at the instance of the person entitled to such conveyance, by contempt proceedings in the manner provided for the enforcement of a decree under section twenty-five hundred and fifty-five of this act, provided it is shown that such person tendered performance of his part of the contract, or was ready and able to perform when requested, within a reasonable time after the order was entered. Upon such a proceeding costs and disbursements may be allowed and included in the order, payable from the estate, in the sums specified in section twenty-five hundred and sixty-one of this act.

§ 2. This act shall take effect September first, nineteen hundred and eight.

Chap. 503.

AN ACT to consolidate and revise the several acts relative to the city of Ithaca.

Became a law, May 23, 1908, with the approval of the Governor. Passed, three-fifths being present.

Accepted by the City.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

THE CHARTER OF THE CITY OF ITHACA.

Title I. Short title; boundaries; civil divisions; incorporation of city (§§ 1–5).

II. City officers; elections; appointments; vacancies; bonds; powers and duties (§§ 6–27).

Title III. The common council (§§ 28–36).
IV. Assessment and taxation (§§ 37–53).
V. City court (§§ 54–101).
VI. Department of public works (§§ 107–162).
VII. Fire department (§§ 163–169).
VIII. Department of education (§§ 170–199).
IX. Sinking fund commissioners (§§ 200–206).
X. Miscellaneous (§§ 207–241).

TITLE I.

SHORT TITLE; BOUNDARIES; CIVIL DIVISIONS; INCORPORATION OF CITY.

Section 1. Short title.
2. City boundaries.
3. Ward boundaries.
4. Change or increase of wards.
5. Corporate name; powers.

Section 1. This act is a public act and should be known and cited by the short title of "Ithaca city charter."

§ 2. All that part of the county of Tompkins, comprised within the following boundaries, namely: Commencing at the southwest corner of DeWitt's location so called, being the fourteen hundred acres conveyed to him by Abraham Bloodgood by deed dated December first, seventeen hundred and ninety-two; thence due east along the south line of said location and the south line produced, to a point three thousand four hundred fifty-two feet east of the east line of military lot ninety-four; thence due north parallel with said east line of lot ninety-four to the north line of military lot ninety-two; thence west along the north lines of lots ninety-two and ninety-four and these lines produced, to the west line of military lot eighty-seven; thence south along the west line of said lot eighty-seven and the west line of said DeWitt's location to the place of beginning, shall continue to be and constitute the city of Ithaca. All the territory outside of the boundaries of the city of Ithaca and within the boundaries of the town of Ithaca shall constitute the town of Ithaca, and the said city and town shall be separate and independent of each other.

§ 3. The said city shall be divided into five wards, respectively, as follows:

First ward.— The first ward shall be all that part of said city bounded on the east by a line commencing in the north line of

said city in the center of the Cayuga inlet, thence running up the center of said inlet to the center of Fifth street; southerly along the center of Fifth street to the center of Cascadilla street; east along the center of Cascadilla street to the center line of Park place; south along the center of Park place to the center line of Buffalo street; west along the center of Buffalo street to the center line of Corn street, and south along the center line of Corn street, extended, to the south line of the city.

Second ward.— The second ward shall be that part of said city bounded by the south line of the city, the center line of Aurora street to the center line of Buffalo street, the center line of Buffalo street to the center of Tioga street, the center line of Tioga street to the center of State street, the center line of State street to the center of Corn street, and the center line of Corn street, extended, to the south line of the city.

Third ward.— The third ward shall be that part of said city bounded by the center line of State street, the center line of Tioga street to the center of Mill street, the center line of Mill street to the center of Cayuga street, the center line of Cayuga street to the center line of Cascadilla creek, the center line of Cascadilla creek and Lake avenue extended to the north line of the city; by said north line to the center of Cayuga inlet, the center line of Cayuga inlet to the center of Fifth street, the center line of Fifth street to the center of Cascadilla street, the center line of Cascadilla street to the center of Park place, the center line of Park place to the center of Buffalo street, the center line of Buffalo street to the center of Corn street, and the center line of Corn street to the center of State street.

Fourth ward.— The fourth ward shall be that part of said city bounded by the south and east lines of the city, the center line of University avenue to the center of Cascadilla creek and Linn street, the center line of Cascadilla creek to the center of Tioga street, the center line of Tioga street to the center of Buffalo street; the center line of Buffalo street to the center of Aurora street and the center line of Aurora street to the south line of the city.

Fifth ward.— The fifth ward shall be that part of said city bounded by the east line of the city from the center of University avenue north, the north line of the city as far west as the center of Lake avenue extended from Cascadilla creek, the center line of said extension and the center line of Cascadilla creek as

far southerly as the center of Cayuga street, the center line of Cayuga street to the center of Mill street, the center line of Mill street to the center of Tioga street, the center line of Tioga street to the center of Cascadilla creek, the center line of Cascadilla creek to the center of Linn street and University avenue, and the center line of University avenue to the east line of the city.

§ 4. Whenever the population of any ward shall exceed that of any other by ten hundred inhabitants the common council may alter the boundaries of the wards or increase the number thereof, so that the population in each ward shall be equal as near as conveniently may be, and shall by resolution, to be entered in the minutes of the common council, declare the limits of each ward, which resolution shall be published in one or more of the city papers for two successive weeks; but no new ward shall be created with a population of less than two thousand.

§ 5. The citizens of this state, from time to time inhabitants within the aforesaid limits, shall be a corporation under the name and style of "The City of Ithaca" and in that name may sue and be sued, complain and defend in any court, make and use a common seal, and alter it at pleasure; and may receive by gift, grant, devise, bequest or purchase, and hold and convey, such real or personal estate, either within or without the city limits, as the purposes of the corporation may require. All the real estate and personal property now owned or possessed by, or held in the name of, or in trust for, the mayor and common council of the city of Ithaca, are hereby vested in the city of Ithaca, with power to hold or convey the same as the purposes of said corporation may require.

TITLE II.

CITY OFFICERS; ELECTIONS; APPOINTMENTS; VACANCIES; BONDS; POWERS AND DUTIES.

Section 6. City officers.
7. Failure to qualify.
8. Qualifications of voters.
9. City election; polling places.
10. Election districts.
11. Certificates of election.
12. Oath of office.
13. Municipal year.
14. Election in November, nineteen hundred and eight; terms of office.

Section 15. Mayor; his powers and duties.
16. Aldermen; their duties.
17. Supervisors; duties and compensation.
18. City attorney; his duties and compensation.
19. Assessor and associate assessors; their powers and duties.
20. Commissioner of buildings; his powers and duties.
21. Police commissioner; qualifications, powers and duties.
22. Police; their several powers and duties.
23. Constable; their powers and duties.
24. Commissioner of charities; his qualifications and duties.
25. City clerk; his duties.
26. City chamberlain; his powers and duties.
27. Board of health; powers and duties.

§ 6. The officers of said city shall be as follows: A mayor, and a city judge, to be elected on a general ticket by the qualified voters of the city; two aldermen and one supervisor from each ward, to be elected by the qualified voters of the city residing in each ward, respectively; a city attorney, a city chamberlain, an assessor, two associate assessors, six commissioners of public work, six commissioners of public health, three fire commissioners, a commissioner of buildings, a police commissioner, a commissioner of charities, three sinking fund commissioners, such members of the police force, general and special, and such constables, as in the judgment of the common council may be deemed necessary, and such officers as are hereinafter, or by the general laws of the state, authorized and provided, all of whom shall be appointed by the mayor except as otherwise herein or by said general laws provided. The same person may be so appointed to hold one or more of said offices at the same time. A city clerk and a city superintendent shall also be officers of the city and shall be appointed by the board of public works hereinafter provided. Before any person shall be so appointed to one or more of said offices the common council, except as otherwise provided for, shall fix the maximum rate of compensation to be paid for performing the duties of each of said offices, which maximum rate shall not be changed during the incumbency of the appointee next thereafter appointed thereto. The common council may also, prior to each of such appointments, prescribe the duties of

such officers in addition to and not inconsistent with the duties prescribed by this act, except as otherwise provided for; and, subject to such provisions of the common council and to the provisions of this act, the mayor shall prescribe the duties and fix the rate of compensation of all officers appointed by him.

§ 7. Every person elected or appointed to office under this act, who shall refuse or neglect to take and file the oath of office hereinafter required, prior to the beginning of the term for which he was elected or appointed, shall be deemed to have declined the office and his place shall be filled as in case of a vacancy, and he shall forfeit twenty-five dollars to be due and collected in the name of and for the benefit of the city. Nothing herein contained, however, shall prevent a person appointed to office from declining the appointment by making his declination in writing and filing the same with the city clerk within the period above provided, in which case no penalty shall attach.

§ 8. Every inhabitant residing in the city of Ithaca who shall, at the time and place of offering his vote, be qualified to vote for member of assembly, shall be entitled to vote for the officers to be voted for by virtue of this act in the ward where he shall be so qualified.

§ 9. The annual city and ward election shall be held on the same day and at the same places with the state general election. Elections held under this act shall be governed by the general election law of the state where it is not inconsistent with the provisions of this act, and all certificates of nomination shall be filed as provided therein. Separate returns as to city officers voted for shall be filed by the inspectors in the office of the city clerk within twenty-four hours after the completion of the canvass.

§ 10. The common council shall have authority to subdivide the several wards into election districts in accordance with the general election laws; and said districts, when so designated by said council, shall constitute election districts for all general and other elections to be held in said city unless herein otherwise provided; and all provisions of law applicable to election districts and to the inspectors and other officers of election thereof and therein shall apply to said election districts, inspectors and other election officers.

§ 11. The common council shall convene on the second Wednesday after an election at eight o'clock in the afternoon at its usual place of meeting, and the statements of votes filed with the city

clerk by the inspectors of election shall be produced by the clerk. The common council shall forthwith determine, declare and certify in the manner now provided by law, who, by the greatest number of votes, are duly elected at the said election to the various elective offices hereinbefore named; such certificates shall be made in duplicate, one of which shall be filed with the clerk of said city, and the other with the clerk of Tompkins county.

§ 12. All elective officers shall take the oath of office prescribed by the constitution of the state and shall enter upon the duties of their respective offices on the first day of January following their election, and all appointive officers shall take their office the day after their appointment, except as herein otherwise provided.

§ 13. The municipal year in the city and the term of all elective officers shall begin on the first day of January, and the term of all elective and appointive officers shall expire on the last day of December of the last year for which they were respectively elected or appointed, except as may be in this act otherwise provided; provided, however, that every officer of said city shall hold his office until his successor shall have qualified.

§ 14. At the general election held in November, nineteen hundred and eight, there shall be elected, in addition to the mayor, a city judge. The term of the mayor then elected shall end with the thirty-first day of December, nineteen hundred and eleven; and the term of the city judge elected at that time shall end with the thirty-first day of December, nineteen hundred and eleven. At the annual election in November, nineteen hundred and eleven, and each odd numbered year thereafter, a mayor shall be elected to hold office for two years. At the annual election in November, nineteen hundred and eleven, and each fourth year thereafter, a city judge shall be elected for a term of four years. Aldermen shall be elected each for a term of two years. The aldermen in office when this act takes effect shall serve out the remainder of the term for which they were respectively elected. At the annual election in November, nineteen hundred and eight, there shall be elected two aldermen from the fifth ward, one for a term of one year and the other for a term of two years. Thereafter at each general election there shall be elected one alderman from each ward in place of the alderman from each ward whose term of office shall next thereafter expire. The supervisors in office when this act takes effect shall serve out the remainder of the term for which they were respectively elected,

and at the general election in November, nineteen hundred and eight, a supervisor in the fifth ward shall be elected for a term of one year. Thereafter at the general election next preceding the expiration of the term of any supervisor, a successor shall be elected for the term of two years, or such term as may be otherwise provided.

§ 15. The mayor of the city of Ithaca shall be the chief executive magistrate thereof and shall, when present, preside at all meetings of the common council. It shall be his duty to take care that within the city the laws of this state and the ordinances and by-laws passed by the common council shall be faithfully executed, and as head of the police of said city to arrest or cause the arrest of all persons violating the same; to exercise a constant supervision over the conduct of all subordinate officers; and to receive and examine into all complaints against them for misconduct or neglect of duty; to appoint, at the first meeting of the common council in each year, or as soon thereafter as may be, all standing committees required by the rules of the common council, and all special committees of the common council unless by it otherwise ordered; to recommend in writing to the common council, from time to time, such measures as he shall deem necessary or expedient for it to adopt; to approve or disapprove of all bills, orders, resolutions or ordinances which shall have passed the common council, and if he disapproves, he shall return the same to the common council or to the clerk thereof with his objection in writing, which shall be filed by the clerk, and the common council may, at its next meeting, thereafter, proceed to reconsider such ordinance, resolution, order or act thus disapproved, and if the same shall be passed by the votes of two-thirds of all the aldermen then in office, the same shall have full force and effect, notwithstanding the objection of the mayor. If any such bill, order, resolution or ordinance shall not be so returned by the mayor to the common council or clerk within five days after it shall have been passed such ordinances, resolution, order or act shall have full force and effect in like manner as if duly approved by the mayor, unless the term of office of the mayor shall have expired within five days after the same shall have been passed, in which case such ordinance, resolution, order or act shall have no force. He shall have power, summarily, to hear, try and determine any complaint for misconduct or neglect of duty against any officer of the city appointed by the mayor, and to suspend or

remove said officer, provided, however, that at the next meeting of the common council after such removal he shall state his reasons therefor in writing, which shall be spread upon the minutes kept by the common council. He shall have power, summarily, to revoke any license issued by him to any milkman, hackman, cartman, peddler, street dealer, or for the exhibition of any show. When authorized by the common council or board of public works so to do, he shall execute in behalf of the city all deeds, contracts and other papers to be executed as the act of the city. He shall have power to administer oaths and take affidavits and acknowledgments; he shall have power to prescribe the duties, and fix the rate of compensation of all officers appointed by him and of all employees of the city not otherwise provided for by this act. The mayor shall possess all the power and authority conferred upon the mayors of cities of the same class by any general statute of the state. He may, upon complaint being made to him under oath, issue a warrant to any police officer in the city of Ithaca to arrest any person charged with any crime or misdemeanor, or with violation of any of the laws or statutes of the state within said city, and bring such person for examination or trial before the recorder or acting recorder; and such warrant may be executed by any officer to whom it is directed at any place within the state without indorsement. When such process shall be made returnable before the city judge, such officer, upon the same being returned to him, or the prisoner arrested by virtue thereof being brought before him, shall take and acquire jurisdiction of the subject-matter and proceed with the case to the same extent and in the same manner and in all respects as if such process had been originally issued by him. He shall have power at all times to examine the books, vouchers and papers of any officer or employee of said city, and to summon and examine, under oath, any person connected therewith. It shall be the duty of the mayor, either in person, or by the aid of a competent expert, to know the manner in which the accounts of the city and of the various boards are kept; to exercise general supervision thereof; to require the submission of the statements provided for by this act, and such additional statements as he may deem necessary; and to cause the annual statements to be published; to exercise the right of veto as to any resolution of any board created or continued by this act making unlawful expenditure, or any expenditure in excess of its appropriation not otherwise provided for; to make

recommendations for the consideration of any of said boards, and to make such investigations and reports in regard to the work and transactions thereof as he may deem necessary or advisable for the information of the inhabitants of the city or otherwise.

§ 16. It shall be the duty of every alderman in said city to attend the regular and special meetings of the common council; to act upon committees when thereunto appointed by the mayor or common council; to report to the mayor all officers who are guilty of any official misconduct or neglect of duty, and to aid in maintaining peace and good order in the city, and to perform, or assist in performing, all such duties as are enjoined upon the aldermen of the city, separately, or upon the common council thereof.

§ 17. The supervisors elected under the provisions of this act shall be members of the board of supervisors in the county of Tompkins. It shall be their duty to represent the city at all general and special sessions of said board, and to act and vote upon all measures coming before the board for its action and determination. They shall have the same compensation allowed by law and in the same manner as supervisors of towns for similar service.

§ 18. The city attorney shall prosecute and defend all actions and proceedings by and against the city and every department thereof. He shall be the official legal adviser of the mayor, the common council, the boards and other officers of the city. He shall, when required, prepare all legal papers, contracts, deeds and other instruments for the city and the different departments thereof, and attend the meetings of the common council and of the board of public works. He shall, when desired by the board of public works, attend to all the proceedings under this act, in relation to improvements, local or otherwise, and conduct the same in a legal manner. It shall be his duty to pass upon the legality of all bills or claims presented to the common council or the board of public works which may be submitted to him for that purpose, and he shall perform such other professional services relating to the city as the mayor or common council may direct. It shall be his duty to appear in behalf of the people in proceedings before the city judge whenever in the judgment of the mayor or a majority of the members of the common council or board of public works, the interests of the city require it. If the city attorney certifies to the common council that he needs the

assistance of additional counsel on questions or matters submitted to him, or if in the judgment of the mayor other or additional counsel should be employed, the common council may authorize the mayor to employ counsel thereon; and except upon such authorization the city attorney shall be the sole attorney and counselor of the city and of its various boards and departments. Whenever any papers in any proceeding or action, by which the city is affected, shall be served on any officer of the city, he shall forthwith deliver the same to the city attorney, who shall thereupon take such action in the matter as shall be necessary to protect the interests of the city until the next meeting of the common council, when he shall report thereon with his proceedings and recommendations therein. He shall keep a record or register of all suits and proceedings which, as city attorney, he shall have in charge. He shall have power to authorize any attorney to appear for him, temporarily in case of his absence or illness, for and in behalf of the city in any suit or proceeding. All costs of actions and proceedings, when the city is a party, shall belong to the city, and when collected shall be paid to the city chamberlain and credited to, and form a part of, the contingent fund. The city attorney shall, at the expiration of his term of office, deliver to his successor, as soon as qualified, the record or register of all suits and proceedings in which the city or any of its departments may be a party, and all papers therein in his possession, and shall sign stipulations substituting such successor, as attorney for the city, to the end that a suitable order may be entered making such substitution. The common council shall pay the city attorney all disbursements or expenses which he may legally incur in behalf of the city and which may be incurred under the direction of the common council or mayor or any board or officer, as provided by this act. He shall receive for his salary one thousand five hundred dollars per annum, payable monthly, and no other fee or reward, except necessary expenses and disbursements incurred by him.

§ 19. The assessor in office when this act goes into effect shall serve during the remainder of the term for which he was appointed. At the first meeting in January, nineteen hundred and nine, the mayor shall appoint one associate assessor to serve for one year, and one associate assessor to serve for three years. Thereafter as their several terms expire, successors shall be appointed to serve for the regular term of three years. The associate assessors shall not at any time both belong to the same political

party. It shall be the duty of the assessor with the aid of the associate assessors to prepare and file with the city clerk on or before the first day of April in each year an assessment-roll of all the taxable inhabitants and property of said city. Upon completion of said roll the assessor shall give notice of the time and place when and where the assessor and associate assessors will sit for hearing grievances and reviewing the assessments therein, and such grievance day shall not be later than the fifteenth day of April in each year. Such notice shall be published at least three times in each of two newspapers published in the city, and shall also be posted in ten public and conspicuous places in each ward at least ten days before the day specified therein. The assessment-roll, after such hearing and review, shall be completed, certified and filed with the clerk of the said city on or before the first day of May in each year. The assessor shall possess all the powers and authority of town assessors and be governed by the general statutes relating thereto so far as applicable. He shall perform the duties required of him in relation to the assessment of property in the city for the purposes of levying taxes imposed either under the provisions of this act or by the board of supervisors of Tompkins county. He shall make four copies of the assessment-roll, one of which shall be kept in his office, one furnished to the city chamberlain for the collection of city taxes, one furnished to the board of supervisors for the collection of state and county taxes and one furnished to the board of education for the collection of school taxes. The associate assessors shall act with the assessor as a board of revision, equalization and grievance, each to have equal power with the assessor in altering and changing assessments by a majority vote. They shall, upon the completion of the assessment-roll, carefully inspect the same and assist the assessor in adjusting the assessed values upon an equalized basis, and shall be present upon grievance day for the purpose of hearing complaints and of making alterations or changes found necessary. The annual salary of the assessor shall be six hundred dollars, payable monthly, and of the associate assessors one hundred dollars each, payable quarterly.

§ 20. The commissioner of buildings, at reasonable times, shall enter and examine all premises and buildings and ascertain if they are in a dangerous state in regard to fires. He shall have power to prevent all practices which may be a menace to life or property or make buildings and property more hazardous from

fires; to prevent and regulate the construction of any building, chimney, fireplace, heater, stove, stove-pipe, oven or furnace, repository for ashes or charcoal, boiler, furnace, or other apparatus or thing whatever which may be considered dangerous with respect to fires, and to cause the owner or occupant of any premises upon which shall be found anything dangerous as aforesaid, to remove the same or put it in a safe condition; to examine any and all buildings in the city which may be dangerous by reason of uses employed therein, or because of their construction, mode of occupancy or location as to other contiguous property, and report thereon to the common council; and upon resolution of said common council to order suitable fire-escapes to be placed and maintained upon said buildings; and in case the owner or occupant shall refuse or neglect to do so or to comply with any of the orders, rules and regulations adopted by the commissioner of buildings in order to prevent occurrence of fire, or to lessen the danger therefrom the common council, upon report made to it by the commissioner of buildings of the violation of any of his orders or provisions, or neglect to comply with his directions, shall have power to cause the same to be done at the expense of the owner or occupant and to collect the cost and expenses thereof by suit in the name of the city brought against the person or persons violating the rules and regulations, or refusing to comply therewith, in the city court of the city, or by assessment of the expense thereof upon the property so improved or benefited thereby, and collection of the same by warrant issued to the city chamberlain, to be enforced in the manner provided for the collection of taxes. The common council may adopt ordinances to assist the commissioner of buildings in enforcing rules and regulations adopted by him, and prescribe penalties for the violation thereof. Nothing contained in this act shall be construed as preventing the chief engineer of the fire department of the city of Ithaca from acting in the capacity of commissioner of buildings. The salary of the commissioner of buildings and terms of payment shall be fixed by the common council.

§ 21. There shall be a police commissioner to be appointed by the mayor. No person shall be appointed to the office of police commissioner, chief of police, or sergeant, nor any person be appointed a policeman who, at the time of appointment, shall be engaged or interested in a saloon or hotel, or in any wise concerned in the manufacture or sale of spirituous or malt liquors, ale or beer; and in case any person appointed to such office shall

during his term engage or become interested in any of the occupations specified, his term of office shall thereupon cease and the office become vacant. The police commissioner shall control and regulate policemen of the city, who shall be appointed by the mayor. The policemen and officers of the force now in office shall continue to be policemen, but each subject to removal by the mayor when found to be incompetent, negligent or guilty of misconduct in and about, or unable to perform, the duties of his office, or guilty of wilfully violating any of the rules and regulations of the police commissioner or of any superior officer. The police commissioner shall have power to enforce within said city the laws of this state relating to the police thereof. He may prefer charges against any member of the police force and may prescribe and enforce rules, by-laws and regulations for the government of the police force of the city, not inconsistent with the laws of this state, which shall be promulgated through the chief of police to the whole force, and the chief shall have immediate direction and control of the policemen under such rules. The police commissioner shall serve without salary. His term of office shall be three years.

§ 22. The mayor may appoint from the police of the city the chief of police and one sergeant. The chief of police, sergeant and policemen shall receive for their services such compensation as shall be fixed by the common council. The chief and policemen shall severally possess the power and authority of constables at common law and under the statutes of this state other than in civil actions or proceedings. They shall also perform such duties as shall be prescribed by this act and by the police commissioner for the preservation of the public peace, the care of the city property, and the enforcement of the police regulations and municipal ordinances of the city. It shall be the duty of the chief of police to keep a record of all arrests and of all services performed by him and by the several policemen, and he shall keep a book to be known as the "property book," in which shall be entered all articles taken from persons arrested or seized on warrant or otherwise, together with the disposition made thereof. He shall, upon request of the police commissioner, make a report as to the condition of the department, and whether any member of the force is delinquent in performance of his duties, and he shall be charged with the enforcement of the rules and regula-

tions prescribed by the police commissioner for the control and conduct of the several policemen, and of the directions given by the mayor or common council in relation thereto.

§ 23. Any constable appointed as provided in this act shall possess the same powers, be subject to the same duties and entitled to the same compensation as prescribed by law for constables in towns of this state.

§ 24. No person shall be appointed to the office of commissioner of charities who, at the time of such appointment, shall be a member of the common council, or engaged or interested in business as a grocer, saloon keeper or hotel keeper, or in any wise concerned in the manufacture or sale of spirituous or malt liquors, ale or beer, and should any person appointed to such office during his term become a member of the common council, or engaged in any of the occupations above specified, his term of office shall thereupon cease and the office become vacant, and the mayor shall forthwith appoint another in his place. The commissioner of charities is hereby vested with all the powers and duties, and shall be subject to all the obligations and liabilities now or hereafter prescribed and provided by the general statutes of the state of New York, relating to overseers of the poor in towns, so far as the same are applicable to and not inconsistent with this act. It shall be the duty of the commissioner to visit the poor of the city at their several places of abode, examine into their circumstances and ascertain to what extent any of them are or may be in need and entitled to permanent or temporary relief. The commissioner shall require all persons requesting relief to make application in writing, which shall be preserved by the commissioner. The commissioner shall have power to administer oaths in the performance of his duties, and to examine under oath any person applying to him for relief; and false swearing during such examination shall be deemed wilful perjury. The commissioner shall issue orders for all means, provisions and supplies furnished to any of the poor of the city. The city shall continue to be the owner of all articles or supplies furnished to any poor person or applicant, until the same are consumed, and if any person to whom articles or supplies shall be furnished shall sell or exchange the same for money or intoxicating liquors, or in any way dispose of the same other than in the manner directed, such conduct shall be deemed a misdemeanor. If it shall appear to the commissioner

that any person applying to him for relief requires only temporary relief, or is so disabled that he cannot safely or conveniently be removed to the county almshouse, such commissioner may pay, or contract to be paid or expended, such sum for the temporary or other relief of such poor person as the circumstances shall require, which sum shall be a city charge and shall be paid to such commissioner of charities out of the city poor fund when such poor person is a city charge, but if a county charge, the commissioner shall be entitled to receive the amount thereof from the county treasurer, to be by him charged to the county; but no greater sum than twenty dollars shall be contracted for, expended or paid by the commissioner for any one poor person or family without the written approval of the superintendents of the poor of the county of Tompkins. The commissioner may employ a city physician for the purpose of medical care and attendance of the poor of the city who are a city charge, for a period not exceeding one year and not beyond his own term of office, and at a salary to be fixed by the common council not exceeding the rate of five hundred dollars per year, which shall be a city charge and paid out of the city poor fund. The commissioner shall, whenever requested by the mayor or common council, make his report under oath, in detail, specifying all appropriations, expenditures, temporary relief and allowance made by him as such commissioner, during such period preceding as shall be specified in the request, which report shall give the name and place of abode of each person relieved, and such statistical information relating to the causes of poverty as the mayor may require. Also the quality, quantity and price per pound, or otherwise, as the case may be, of each article ordered or furnished, and from whom obtained, and the amount, by items, of all moneys which have been expended by him, for whom, when and for what purpose; which report shall be filed with the city clerk. At the end of each fiscal year a full and detailed report under oath shall be submitted to the common council and filed with the clerk. All charges and accounts against the city for services rendered, acts done or means, provisions or supplies furnished under the direction of the commissioner of charities, pursuant to the provisions of this act, shall, upon approval by the common council, be paid from the poor fund of the city. The commis-

tions prescribed by the police commissioner for the control and conduct of the several policemen, and of the directions given by the mayor or common council in relation thereto.

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that any person applying to him for relief requires only temporary relief, or is so disabled that he cannot safely or conveniently be removed to the county almshouse, such commissioner may pay, or contract to be paid or expended, such sum for the temporary or other relief of such poor person as the circumstances shall require, which sum shall be a city charge and shall be paid to such commissioner of charities out of the city poor fund when such poor person is a city charge, but if a county charge, the commissioner shall be entitled to receive the amount thereof from the county treasurer, to be by him charged to the county; but no greater sum than twenty dollars shall be contracted for, expended or paid by the commissioner for any one poor person or family without the written approval of the superintendents of the poor of the county of Tompkins. The commissioner may employ a city physician for the purpose of medical care and attendance of the poor of the city who are a city charge, for a period not exceeding one year and not beyond his own term of office, and at a salary to be fixed by the common council not exceeding the rate of five hundred dollars per year, which shall be a city charge and paid out of the city poor fund. The commissioner shall, whenever requested by the mayor or common council, make his report under oath, in detail, specifying all appropriations, expenditures, temporary relief and allowance made by him as such commissioner, during such period preceding as shall be specified in the request, which report shall give the name and place of abode of each person relieved, and such statistical information relating to the causes of poverty as the mayor may require. Also the quality, quantity and price per pound, or otherwise, as the case may be, of each article ordered or furnished, and from whom obtained, and the amount, by items, of all moneys which have been expended by him, for whom, when and for what purpose; which report shall be filed with the city clerk. At the end of each fiscal year a full and detailed report under oath shall be submitted to the common council and filed with the clerk. All charges and accounts against the city for services rendered, acts done or means, provisions or supplies furnished under the direction of the commissioner of charities, pursuant to the provisions of this act, shall, upon approval by the common council, be paid from the poor fund of the city. The commis-

sioner shall not directly or indirectly receive any profit from money, groceries, provisions, fuel, medicines, property or supplies furnished for any poor person or family, nor shall he be interested in any contract for the purchase of supplies of any character to be used for the relief of any of the poor of the city; and for any violation of this provision the commissioner shall be removed from office by the mayor and he shall forfeit to the city a penalty of one hundred dollars for each violation, to be recovered by action in the city court or any other court having jurisdiction. His compensation and terms of payment shall be fixed by the common council.

§ 25. The city clerk appointed by the board of public works as hereinafter provided, shall attend all meetings and act as clerk of the common council and of the board of public works; also of the board of health. He shall have charge and keep a record of all proceedings of the common council and of the several boards of which he may be clerk, and properly index the same. He shall have charge of all city documents, including deeds, contracts, maps and records of every character, pertaining to the city of Ithaca, and to any of the departments of said city under the authority of the common council or in charge of the board of public works, except those pertaining to the office of assessor, and shall cause the same to be so classified, filed and indexed that they shall be easily found and accessible at all times. He shall be provided with proper filing cabinets and a safe depository for all valuable maps and documents; he shall draw warrants upon the city chamberlain for all bills audited by the common council and by the board of public works, and keep a record thereof, showing from what fund such moneys shall have been drawn, and the correct amount of moneys in the different funds required to be raised by the common council for the current year, and report to the common council and the board of public works as to the amount of moneys drawn from each fund and the amount remaining therein. He shall keep a record of all bonds issued by the city, the time when payments of interest and principal fall due thereon; make requisition of the city chamberlain by warrant for all sums required for the payment of interest, so that there shall be no default upon any bond; make a statement and certify to the common council in each year the amount required for the payment of the interest and principal falling due during the year, includ-

ing the first day of January of the year following. He shall keep a maintenance account with each department in charge of the board of public works, crediting such account with the amount appropriated by the common council, and with any income derived from the department, charging it with all bills audited against the department; the account to be so kept and maintained as to show at all times the balance unexpended in that department; the expenses, and if desired, the receipts, to be classified into subdivisions as requested by the mayor or directed by resolution of the board of public works, in order that the cost of any particular improvement or class of work in any department may be readily known. He shall keep an account of each fund for permanent improvement for which provision was made in the tax levy, crediting such account with the amount appropriated for that specific item, and debiting it with the amount expended. He shall furnish statements in whatever form and at whatever time they may be required by the mayor, common council or board of public works. He shall act with the mayor and chairman of the finance committee of the common council as an auditing committee on the city chamberlain's return of uncollected taxes. He shall attend to the publication of all notices required in condemnation and assessment proceedings, following the instructions of the city attorney in respect thereto; prepare assessments for permanent improvements, subject to the action of the board of public works and common council; prepare warrants to the city chamberlain for the collection of such assessments and keep account of each assessment separately, showing the amount due and payable each year on each deferred assessment. He shall possess the powers and discharge the duties of town clerk, except so far as the same is inconsistent with the provisions of this act. He shall have the same power to administer oaths, and take affidavits and acknowledgments within the city as that possessed by justices of the peace in towns. He shall sign and execute, with the mayor, such deeds, contracts and documents as may be directed to be executed in the name of the city by the common council or by the board of public works, and affix the official seal of the city thereto. He shall have an office to be provided by the city, which shall be kept open for the transaction of business during such hours as the board of public works shall prescribe. It shall be the duty of the city clerk on the thirty-

first day of December in each year, to submit to the mayor a written report, in which shall be correctly set forth:

1. A tabular statement of the amounts raised by taxation during the year; the several purposes for which the tax was levied, as provided in the resolution levying the same; the amount raised, and the amount actually paid out on account of each of said purposes.

2. A summarized statement of the income available to the common council for its running expenses, exclusive of all amounts which are expended under the direct control of any other board; and of the amount audited by the council on account thereof.

3. A summarized statement of the receipts and payments of the board of public works, and also of every other board provided for by this act, except the board of education intrusted with the expenditure of city moneys.

4. A statement of the amount paid during the year on account of outstanding bills of previous years, and a statement of the amount of unpaid bills outstanding at the close of the year.

§ 26. The city chamberlain before entering upon the discharge of his duties shall execute a bond to the city of Ithaca in a penalty to be fixed by the common council, with a surety company as surety, to be approved by said council, conditioned for his honestly and faithfully discharging the duties of his office, and accounting for and paying over all moneys which shall come into his hands as such chamberlain. Such bond shall be filed, after acceptance and approval, with the city clerk. No warrant for the collection or reception of any tax shall be delivered to the city chamberlain until such bond shall have been executed, approved and filed. All moneys due or belonging to the city shall be paid to the city chamberlain, who shall deposit the same in the bank, banks or trust company designated by the common council, and shall pay out said moneys only in accordance with the provisions of this act. He shall not receive for his benefit or use any other compensation in fees, allowance or percentage of any name or kind whatever, except his salary which shall be fixed by the common council. All interest and percentages received on the collection of taxes or assessments for improvements, together with all interests received from whatever source shall be added to the city funds for the use of the city,

and credited to the particular fund to which it belongs. His office shall be kept in such place and open at such hours as shall be provided by resolution of the common council. He shall devote his whole time to the duties of his office and shall have such assistants as may be necessary, who shall be appointed by him subject to the approval of the common council, which shall also fix their compensation. It shall be his duty to collect all taxes and assessments in the city as treasurer thereof; to receive and keep all moneys belonging thereto, and to pay therefrom only in accordance with warrants drawn thereon by the city clerk under the direction of the common council, board of public works or board of fire commissioners. He shall be subject to the liabilities and obligations prescribed by law for town collectors and county treasurer, so far as consistent with, and subject to, the provisions of this act. It shall be his duty to receive all state, county and city taxes including school taxes, and all assessments taxed or assessed upon real or personal property in the city of Ithaca upon assessments and warrants which may, from time to time, be delivered to him according to law. All moneys received or paid out for the city shall be received and paid out by the city chamberlain. As collector of each tax he shall be charged with the full amount of the tax levy, and empowered to collect the same by suit before the city judge, by sale of property, real or personal, and by all methods provided in this act for the enforcement of the collection of taxes, and possess also all the rights and powers vested in collectors in towns. As collector of assessments for improvements and benefits he shall execute all warrants issued by the board of public works, with the same powers as provided for the collection of taxes. It shall be the duty of the city chamberlain on the thirty-first day of December, in each year, to submit to the mayor a written report in which shall be correctly set forth a general summary of his cash account for the fiscal year ending on that day, and such additional information as may be required by the mayor.

§ 27. The board of health, in addition to the general powers conferred upon it by the general laws of the state, is authorized and empowered to adopt and amend a sanitary code in and for the city of Ithaca. Said code may be adopted by said board by a majority vote at any regular meeting thereof. Such code when adopted shall be published once a week for three successive weeks in at least one daily newspaper published in said city; and the

publication of such code in the manner aforesaid, and of any additional provisions, modifications or amendments thereafter adopted by such board for three successive weeks in at least one daily newspaper in said city, shall be sufficient and shall render any further publication of the same unnecessary. Such board of health may at any regular meeting after the adoption of said sanitary code amend, modify or make additional provisions thereto by a majority vote of such board of health. Such sanitary code, when adopted and published as aforesaid, and any and all additional provisions, amendments and modifications when so published shall have full force and effect within the limits of said city. Said sanitary code and any and all amendments, modifications and additional provisions shall contain a provision stating the time when the same shall go into effect, which shall be at least three weeks from the day of the first publication. The violation by any person or corporation of any of the provisions of such sanitary code is hereby declared to be a misdemeanor and shall be punishable by a fine not exceeding fifty dollars, or by imprisonment in the county jail not exceeding thirty days, or by both such fine and imprisonment. This act shall not affect any subject not embraced within such code, and the punishment of any offenses or violations upon any subject not embraced in said sanitary code shall be punishable as otherwise provided by law.

TITLE III.

THE COMMON COUNCIL.

Section 28. How constituted.
29. Time and place of meeting.
30. Meetings; quorum; mayor to preside; minutes.
31. Regular meetings, when held; special meetings, how called.
32. Judge of election and qualification; may prescribe duties of appointees.
33. Designation of bank depositories; bond required.
34. General legislative powers.
35. Special enumerated powers.
36. Power to pass ordinances, et cetera; penalties; publication; when to take effect.

§ 28. The mayor and aldermen of the city shall constitute the common council thereof.

§ 29. The common council shall meet on the first day of January after the election at the regular place of meeting of the common council for the previous year, and thereafter it shall meet at the place and times hereinafter provided.

§ 30. At all meetings of the common council the mayor when present shall preside, but in his absence one of the aldermen shall be called to the chair. In the proceedings of the common council each member present shall have a vote, except the mayor, who shall have only a casting vote when the votes of the other members are tied, and except as hereinafter provided. The sittings of the common council shall be public except when the public interests shall require secrecy. The minutes of the proceedings shall be kept by the city clerk, and the same shall be open at all times to public inspection. A majority of the members of the common council shall be a quorum for the transaction of business, but no tax or assessment shall be ordered except by a concurring vote of a majority of all members of the common council in office, including the mayor, who shall be entitled to vote thereon as a member of the council, and no tax levied, assessment bill ordered, resolution or ordinance shall take effect until the same shall receive the approval of the mayor, as hereinafter provided.

§ 31. The common council shall hold regular meetings at least once each month, on the first Wednesday of the month, and the mayor, or, in his absence, any three aldermen, may call special meetings by twenty-four hours' notice in writing served personally or by mail upon the other members of the common council, or by leaving it at their respective usual places of business during business hours, or their respective places of abode at other times.

§ 32. The common council shall determine the rules applicable to its own proceedings and be judge of the qualification of its own members, and have power to compel the attendance of absent members from time to time, and to prescribe the duties of all the officers and persons appointed by them to any place whatever, subject to the provisions of this act and the general statutes of this state.

§ 33. Upon the completion of the assessment-roll in each year the common council shall designate one or more banks or trust companies in said city as the depository of all moneys received by the city chamberlain, and may agree with such bank, banks or

trust companies upon a rate of interest per annum to be paid on moneys so deposited. Each such depository so designated shall, for the benefit and security of the city, and before receiving any such deposits, execute to the city a good and sufficient bond, with two or more sureties, to be approved by the common council. Such bond shall be conditioned for the safe-keeping and payment, on the order or warrant of said city chamberlain or upon other lawful authority, of all such deposits and the agreed interest thereon, and it shall be the duty of the city clerk to file and record such bond in the office of the county clerk of such county. It shall be the duty of the city chamberlain to deposit all funds belonging to the city that may come into his hands in such depository, and his failure so to do will be a misdemeanor. The designation of any such bank and the depositing of moneys therewith by such city chamberlain shall not release him or his sureties from any liability, except for loss through failure or fault of such designated bank.

§ 34. The legislative power of the city is vested in the common council, and it has power to enact and enforce any ordinance or resolution, not repugnant to the constitution or laws of this state, for any local purpose pertaining to the government of the city and the management of its business, the protection of the business and property interests of its citizens, the preservation of order, peace and health, and the safety and welfare of the city and the inhabitants thereof; and it shall also have such powers of legislation, by ordinance or resolution, as are conferred upon it by this act, or any other provision of law affecting the city not inconsistent with this act, except such as are specially conferred by this act upon any separate department or board of the city government. It shall have the management and control of the finances, and of all the property, real and personal, belonging to the city, except as otherwise provided by this act or by any other provision of law not inconsistent therewith. The powers conferred by this section are not limited by the enumerated powers in the following section.

§ 35. In addition to the powers conferred by the last section the common council has power, and in the exercise thereof may make, establish, publish and modify, amend and repeal ordinances, rules, regulations and by-laws:

1. To prevent vice and immorality, to preserve peace and good order, and to prevent and quell riots or disorderly assemblages.

2. To restrain and suppress disorderly and gaming-houses, all instruments and devices used in gaming, to prevent all gaming and fraudulent devices in the city, and to regulate billiard-rooms and bowling alleys and shooting galleries.

3. To prohibit, restrain and regulate all exhibitions of any natural or artificial curiosities, caravans, circuses, theatrical and other shows or exhibitions or performances for money within the bounds of the city; or, if the common council shall deem it advisable, to license any of them upon such terms as the common council may direct.

4. To suppress, repress and restrain disorderly houses, houses of ill-fame, and houses and places where intoxicating liquors are sold to be drank on the premises and to restrain and punish the keepers thereof.

5. To restrain and punish vagrants, mendicants, street beggars and persons soliciting alms, common prostitutes, lewd and disorderly persons, and to prevent and punish drunkenness and disorderly and immoral conduct in public places or streets.

6. To prohibit the obstruction of the streets of the city by the gathering or assembling of persons therein, and to authorize the police officers of the city to disperse all such gatherings or assemblages of persons, and upon the refusal of persons so congregated or assembled to disperse, when commanded so to do by a duly appointed police officer under regulations prescribed by the common council, such police officer may make summary arrest of any person or persons so refusing, and take him or them forthwith before the recorder of the city, to be by him tried as disorderly persons and punished as such; and all such persons are hereby declared to be disorderly persons.

7. To direct the location of all slaughter-houses, markets and houses for storing gunpowder or any other combustible or explosive substance, and to regulate the keeping and conveying thereof and of other dangerous materials, and the use of lights in barns, stables and other places.

8. To prohibit and regulate the exhibition of fireworks, the storing and sale thereof and of gunpowder or any explosive substance, and the discharge of firearms within the city.

9. To prevent racing and immoderate driving or riding of any vehicle in the streets of the city, and to authorize the stopping of

any one who shall be guilty of immoderate riding or driving in said streets, and to prevent the flying of kites, riding a bicycle on sidewalks, rolling hoops, playing at ball, coasting, or any other amusement practiced, having a tendency to injure or annoy or endanger persons passing on the streets or sidewalks or to frighten teams or horses in the city.

10. To prevent any encroachment, incumbrance in, or obstruction upon or over any street, sidewalk, highway or public ground in the city, and, in case of neglect or refusal of any person who shall have caused any such encroachment, incumbrance or obstruction, or of the owner or occupant of any premises upon which shall be any building, fence or other structure or thing encroaching upon, incumbering or obstructing any street, sidewalk, highway or public ground in the city, to remove the same after being notified to do so, to cause such removal at the cost and expense of such person or of such owner or occupant, and to collect such cost and expense as hereinafter provided.

11. To prohibit or regulate and determine the times and places of bathing and swimming in any waters within the city.

12. To establish and regulate public pounds and to appoint all necessary poundmasters and to prescribe their duties.

13. To restrain the running at large of cattle, horses, swine, sheep, goats, fowls and geese and other animals, and to authorize the distraining, impounding, and sale of the same for the penalty incurred, and the costs of keeping and proceedings.

14. To make regulations for taxing and confining dogs and for destroying such as may be found running at large contrary to any ordinance, and to prohibit and regulate their running at large.

15. To prevent or regulate the ringing or tolling of bells, blowing of horns, or whistles or crying of goods or wares, firing of guns, powder or other explosive compounds, and the making of any improper noise which may tend to disturb the peace of the city; and the sale and use of firecrackers, rockets, squibs or other explosive articles or compounds.

16. To prohibit, restrain and regulate all gift enterprises or sales of goods founded upon or connected with any gift, lottery or chance, within the corporate limits of the city, and to restrain and regulate the sale of goods and merchandise at public auction within the same limits, and to authorize the licensing

of the latter upon such terms as the common council shall deem proper.

17. To prohibit and regulate all hawking and peddling, auctioneering or sale of property in or upon the streets, alleys, lanes, sidewalks and public parks and places of the city; and to regulate pawnshops and pawnbrokers.

18. To appoint one or more examiners of weights and measures.

19. To procure fire engines and other apparatus for the extinguishment of fires, and have the charge and control of the same; and to provide fit and secure engine-houses and other places for keeping and preserving the same.

20. To organize and establish a fire department, and to make such fire laws, rules, regulations and ordinances of said department and the rights and duties thereof, and of citizens during fires in the city, as the common council may deem best, and to enforce the same by suitable fines and penalties.

21. To protect property, both real and personal, of individuals at times of fires, and to appoint guards for the protection of the same, and to prescribe their various duties and compensation.

22. To establish and enforce such building laws as may be deemed advisable from time to time and to prescribe limits within which certain building materials and methods of construction may or may not be used.

23. To regulate by ordinance the planting and removal of shrubs, shade and ornamental trees along the streets and sidewalks in said city, and to prevent the injury or defacement of any shrubs, trees, fences, walls, posters or buildings in the streets, parks and public places of the city.

24. To license and regulate cabmen, the drivers of hackney carriages, stages, omnibuses or other conveyances for the transportation of passengers within the city; to fix the rates of fare, and to require them to have licenses and numbers.

25. To regulate runners, stage drivers and others in soliciting passengers and others to travel or ride in any carriage, stage, omnibus, or upon any railroad, or to go to any hotel or otherwise.

26. To license and regulate baggage and other expressmen doing a baggage or parcel delivery business within the city; and to require them to have licenses and numbers for their vehicles.

27. To regulate by ordinance the laying, maintenance, alteration and repair of subways, conduits, mains and pipes in and under the public streets, highways and places.

Section 44. City chamberlain has powers of town collectors; and of county treasurer as to sales for taxes.
45. Statement and return by city chamberlain.
46. Common council may borrow in anticipation of taxes.
47. Unpaid taxes added to next tax levy.
48. Apportionment of tax between several owners.
49. Omitted land may be added and taxed succeeding year.
50. Special election to authorize raising of additional fund; how called and held; who qualified to vote; if voted, common council may borrow in anticipation of the special tax.
51. Local assessments, et cetera, how collected; percentage additions.
52. Lien of taxes and assessments; preferences.
53. County tax; collection.

§ 37. As soon as practicable after the assessment-roll has been completed, corrected and certified by the assessors, the common council shall cause to be assessed and raised by taxation upon all the real and personal property in the city, taxable for city purposes, an amount not exceeding, except as hereinafter provided, one and one-fourth per centum of the average assessed valuation of such property as the same shall appear from the assessment-rolls of the city for the two preceding fiscal years and shall designate the respective portions of the amount so to be assessed and raised applicable to the following purposes:

1. For the uses of the board of public works.
2. For the uses of the commissioner of charities.
3. For the uses of the board of health.
4. For the uses of the fire department.
5. For all expenditures under the direct supervision of the common council.

In addition to the total amount herein above authorized there shall be included such amount as shall be necessary to meet the principal and interest on the bonded indebtedness of the city falling due on or before the first day of January in the next fiscal year, to provide the sinking fund required by law, and to meet all indebtedness remaining unpaid on all judgments against the city for damages caused by negligence; and such

further sums shall have been voted at a special city election of taxpayers called for the purpose.

§ 38. Between the first and fifteenth days of March in each year the board of public works, the board of fire commissioners, the police commissioner, the board of health, city judge, and commissioner of charities shall each estimate in detail the expenses and income of their respective departments for the current fiscal year and shall certify such estimates to the common council. The city clerk shall also make a detailed statement by items of all the estimated expenses for the current fiscal year; likewise a statement in detail of all the judgments against the city then unpaid, and an itemized statement of the principal and interest of all bonded indebtedness of the city that will fall due during the year, and on the first day of January following, together with the amount required for any sinking fund. The city chamberlain shall also present to the common council a statement (1) of balances of funds then on hand in the several departments, (2) of all unpaid taxes and local assessments theretofore assessed and remaining unpaid, with his estimate of the probable amount the city will receive therefrom during the ensuing year, (3) of all expenditures made or incurred by the city and chargeable to the property-owners or other persons, and remaining unpaid, with his estimate of the probable amount the city will receive therefrom during the ensuing year.

§ 39. The common council shall, not later than its first regular meeting in May, consider such estimates and determine the entire amount necessary to be raised by taxation, and shall levy the aggregate amount taxed, ascertained and determined, together with any special tax which shall have been voted to be raised with the annual tax levy. The tax so directed to be raised shall be levied and raised by general tax upon all property, real and personal, taxable for city purposes, in the city, according to the valuation upon the assessment roll for the current year, as completed and corrected. The city clerk, under the direction of the common council, shall extend and apportion the city tax on the assessment roll so completed and corrected in each year, and shall certify such to be a correct roll of city taxes. Such roll shall then be delivered to the city chamberlain, with a warrant annexed under the hand of the mayor and city clerk and the seal of the city, commanding him to receive, levy and collect the

several sums in the roll specified as assessed against the person or property therein mentioned or described, and to return said warrant and roll within six months after the date of the warrant, unless such time be extended by resolution of the common council. From the time of the receipt of the tax roll and warrant by the city chamberlain, all taxes assessed and levied upon any real property shall be a lien thereon for the amount of such tax, with percentage and interest, until the same shall be fully paid.

§ 40. Immediately upon the delivery of the roll and warrant to the city chamberlain the city clerk shall cause to be published a notice thereof in two of the city papers, stating that until a date therein specified which shall be not less than one month after the first publication, the city chamberlain will collect and receive said taxes at his office without percentage addition, but that on all taxes unpaid at the end of the period specified, and thereafter the city chamberlain will require and collect the percentage additions as provided in the following section. Such notice, printed in large type, shall also be conspicuously posted in at least five public places in each ward of the city.

§ 41. Any amount of such tax paid before the expiration of the first period above specified, shall be received by the city chamberlain without percentage addition. On all taxes unpaid on the expiration of the first period, one per centum shall be added and collected; and an additional one per centum on the first day of each month thereafter shall be added and collected on unpaid taxes until and including the first day of December. All such percentages shall be collected and added to the funds of the city.

§ 42. Any tax unpaid on the first day of December with the percentages herein provided the city chamberlain in the name of the city shall forthwith proceed to collect either by virtue of his warrant or by action, judgment and execution in the city court; and in relation to any such judgment the city shall also be entitled to all the remedies and proceedings applicable to judgments as provided by the code of civil procedure. It shall be the duty of the city attorney to take charge of and prosecute all such actions. In any such action the summons shall be served by one of the police of the city. In case judgment is taken by default, not more than two dollars shall be included for costs, fees and disbursements. Any transcript of judgment in any such action, filed with the county clerk, shall have indorsed thereon the words "on account of

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§ 37. As soon as practicable after the assessment-roll has been completed, corrected and certified by the assessors, the common council shall cause to be assessed and raised by taxation upon all the real and personal property in the city, taxable for city purposes, an amount not exceeding, except as hereinafter provided, one and one-fourth per centum of the average assessed valuation of such property as the same shall appear from the assessment-rolls of the city for the two preceding fiscal years and shall designate the respective portions of the amount so to be assessed and raised applicable to the following purposes:

1. For the uses of the board of public works.
2. For the uses of the commissioner of charities.
3. For the uses of the board of health.
4. For the uses of the fire department.
5. For all expenditures under the direct supervision of the common council.

In addition to the total amount herein above authorized there shall be included such amount as shall be necessary to meet the principal and interest on the bonded indebtedness of the city falling due on or before the first day of January in the next fiscal year, to provide the sinking fund required by law, and to meet all indebtedness remaining unpaid on all judgments against the city for damages caused by negligence; and such

further sums shall have been voted at a special city election of taxpayers called for the purpose.

§ 38. Between the first and fifteenth days of March in each year the board of public works, the board of fire commissioners, the police commissioner, the board of health, city judge, and commissioner of charities shall each estimate in detail the expenses and income of their respective departments for the current fiscal year and shall certify such estimates to the common council. The city clerk shall also make a detailed statement by items of all the estimated expenses for the current fiscal year; likewise a statement in detail of all the judgments against the city then unpaid, and an itemized statement of the principal and interest of all bonded indebtedness of the city that will fall due during the year, and on the first day of January following, together with the amount required for any sinking fund. The city chamberlain shall also present to the common council a statement (1) of balances of funds then on hand in the several departments, (2) of all unpaid taxes and local assessments theretofore assessed and remaining unpaid, with his estimate of the probable amount the city will receive therefrom during the ensuing year, (3) of all expenditures made or incurred by the city and chargeable to the property-owners or other persons, and remaining unpaid, with his estimate of the probable amount the city will receive therefrom during the ensuing year.

§ 39. The common council shall, not later than its first regular meeting in May, consider such estimates and determine the entire amount necessary to be raised by taxation, and shall levy the aggregate amount taxed, ascertained and determined, together with any special tax which shall have been voted to be raised with the annual tax levy. The tax so directed to be raised shall be levied and raised by general tax upon all property, real and personal, taxable for city purposes, in the city, according to the valuation upon the assessment roll for the current year, as completed and corrected. The city clerk, under the direction of the common council, shall extend and apportion the city tax on the assessment roll so completed and corrected in each year, and shall certify such to be a correct roll of city taxes. Such roll shall then be delivered to the city chamberlain, with a warrant annexed under the hand of the mayor and city clerk and the seal of the city, commanding him to receive, levy and collect the

several sums in the roll specified as assessed against the person or property therein mentioned or described, and to return said warrant and roll within six months after the date of the warrant, unless such time be extended by resolution of the common council. From the time of the receipt of the tax roll and warrant by the city chamberlain, all taxes assessed and levied upon any real property shall be a lien thereon for the amount of such tax, with percentage and interest, until the same shall be fully paid.

§ 40. Immediately upon the delivery of the roll and warrant to the city chamberlain the city clerk shall cause to be published a notice thereof in two of the city papers, stating that until a date therein specified which shall be not less than one month after the first publication, the city chamberlain will collect and receive said taxes at his office without percentage addition, but that on all taxes unpaid at the end of the period specified, and thereafter the city chamberlain will require and collect the percentage additions as provided in the following section. Such notice, printed in large type, shall also be conspicuously posted in at least five public places in each ward of the city.

§ 41. Any amount of such tax paid before the expiration of the first period above specified, shall be received by the city chamberlain without percentage addition. On all taxes unpaid on the expiration of the first period, one per centum shall be added and collected; and an additional one per centum on the first day of each month thereafter shall be added and collected on unpaid taxes until and including the first day of December. All such percentages shall be collected and added to the funds of the city.

§ 42. Any tax unpaid on the first day of December with the percentages herein provided the city chamberlain in the name of the city shall forthwith proceed to collect either by virtue of his warrant or by action, judgment and execution in the city court; and in relation to any such judgment the city shall also be entitled to all the remedies and proceedings applicable to judgments as provided by the code of civil procedure. It shall be the duty of the city attorney to take charge of and prosecute all such actions. In any such action the summons shall be served by one of the police of the city. In case judgment is taken by default, not more than two dollars shall be included for costs, fees and disbursements. Any transcript of judgment in any such action, filed with the county clerk, shall have indorsed thereon the words "on account of

taxes;" and any execution issued on such judgment by the city judge or by the county clerk, as the case may be, shall have indorsed thereon the words "on account of taxes." Final judgment shall be conclusive as to the validity of the assessment and the tax and the amount thereof in any judgment so docketed.

§ 43. All property subject to seizure for taxes by a town collector, by virtue of the general tax laws of the state, shall be subject to levy and sale by virtue of an execution issued upon any such judgment.

§ 44. In addition to the powers conferred by this act, the city chamberlain is also invested with the same powers which town collectors possess for the levying and collection of town or county taxes, and in any case where execution is returned unsatisfied he may levy and sell property in the same manner as a town collector as provided by law, with the same preferences and procedure in the sale of lands and certificate and deed therefor and redemption as provided by the general tax law as to county taxes; and so far as applicable the city chamberlain shall act in the place and stead of the county treasurer, with the same rights and duties as in said tax law specified.

§ 45. On or before the thirty-first day of December the city chamberlain shall make a sworn statement and return to the common council, in and by which he shall charge himself with the amount of the taxes directed to be collected and all percentage additions, and credit himself with (a) the amount collected, (b) the amount of taxes expunged or canceled by the common council, (c) the amount of taxes, by items, in which legal proceedings are pending for collection, and (d) all taxes in respect to which the city chamberlain makes oath in writing that no property could be found, after search, out of which collection of any taxes could be made. The city chamberlain and his surety shall be liable for any deficiency appearing by said statement or otherwise and for failure to make such statement. The time in which to make said statement and return may be extended by the common council.

§ 46. After said statement and return are filed, but not before the first day of January the common council is hereby given authority to borrow for a period not exceeding eight months, in anticipation of moneys to be raised in and by the next city tax levy, sums not exceeding in the aggregate the amount of the uncollected taxes shown by said statement and return.

§ 47. The common council is also hereby authorized to add to the next tax levy, in addition to the amounts otherwise permitted, the amount of the taxes reported uncollected as aforesaid, in which case all such unpaid taxes shall be re-assessed, so far as practicable against the persons or property legally chargeable therewith.

§ 48. If any sum of money in gross has been or shall be taxed upon any lands or premises, any person or persons owning any divided part thereof, may pay such part of the sum of money so taxed, also the percentages and charges due or charged thereon as the assessors may deem just and equitable, and so certify to the city chamberlain, and the remainder of the sum of money so taxed together with the percentages and charges, shall be a lien upon the residue or remaining part of said lands or premises in the same manner as though the residue of said tax had been imposed thereon only.

§ 49. If any real estate liable to taxation shall any year be omitted from the assessment roll of the city, and thus escape taxation, it shall be the duty of the assessors the succeeding year, to assess the tax on such omitted real estate to which it would have been liable if it had been included in said assessment roll. If any tax on real estate shall for any cause remain unpaid, the amount thereof with interest at twelve per centum per annum may be added to the tax for the succeeding year, and charged upon the real estate upon which it was originally assessed and levied, and the same proceedings in all respects for the collection thereof, and for the collection of omitted taxes, may be had with like effect as in the case of a tax or assessment on the same real estate for the then current year.

§ 50. Whenever the common council shall be of the opinion that the interests of said city require expenditures for any extraordinary or special purpose or purposes, which in its opinion cannot be defrayed from the said sum authorized to be raised by the common council after defraying the ordinary current expenses of the year, the said common council shall have power to call a special election; but before ordering such special election, it shall make an estimate of the sum necessary to be raised for such purposes, and shall state the amount and the objects for which it is required, together with the reasons for its opinion. The common council shall publish such statement together with the time and place of holding such election in at least two of the city papers

at least once each week for the two successive weeks preceding such election. The mayor shall appoint two aldermen to act as inspectors of said election. Every resident of the city of the age of twenty-one years, and every resident corporation whose name shall be in the assessment roll made, completed and certified by the assessors of said city next preceding said special election and upon whose property or upon whom as the owner or possessor of property a tax may be assessed upon said roll and no other person or persons whatever, shall be entitled to vote at said special election. If any person is assessed in any trust capacity, representing property mentioned or named in said roll he shall, if a resident of said city, and twenty-one years of age, be considered a qualified voter and entitled also to cast one vote as such trustee. The said assessment roll made by the assessor or assessors, or a copy thereof certified by the city clerk and the mayor of said city, shall be evidence of the names and assessments, as aforesaid. The polls of said special election shall be opened and closed in the same manner provided for holding city elections. On the ballots deposited on said special election shall be written or printed, or partly written or partly printed on the inside thereof, "for special tax," or "against special tax." The votes received at such special election shall be canvassed, and the result certified, and the certificates thereof filed, as prescribed by section eleven of this act; and the common council at its next meeting after said election, shall cause the result, as appearing by said certificate, to be entered in their minutes; and if it shall appear that the whole number of votes received at such election "for special tax" shall exceed the whole number of votes "against special tax" it shall be the duty of the common council to cause the said sum of money so voted for, to be assessed, levied, and raised in addition to the sum authorized to be raised by the common council, and all other sums herein required to be raised or which are or may be required to be raised by any law of the state of New York, and said special tax may be included in the tax for the current year or for the next succeeding year or may be levied in not more than three equal annual installments, in the same manner and with the same authority as herein conferred in reference to the said sum authorized to be raised by the common council, provided always that the total amount proposed to be raised, in any one year at special election or elections, shall not exceed ten thousand dollars. In case of a majority of

votes "for special tax," the common council may thereupon proceed to authorize the expenditure of the amount thereof for the purposes specified in its published statement, and may borrow, if they deem it necessary to do so, the amount so voted in anticipation of the collection of said tax for a time not exceeding three years, payable in equal annual installments, if loan shall be made for more than one year, and the amount so borrowed shall be expended upon and for the purposes for which the special tax is raised, and shall be paid as soon as the same shall become due, and from the avails of the tax. The money raised by any special tax shall be paid to, and kept by the city chamberlain, distinct from any other moneys and entered in a separate account.

§ 51. All the rights, remedies and procedure, provided by this act for the collection of the city tax shall be available to the city and be used so far as applicable in the collection of assessments for local improvements and of expenditures chargeable upon property as provided in this act or by any ordinances or resolutions of the common council or any board of the city, authorized by this act. The provisions for percentage additions and collection thereof shall also apply, one month for payment without percentage being allowed after date of warrant for the collection of such assessment or expenditure. Advertisement or personal notice or notice by mail may be used in any case covered by this section as the common council may direct.

§ 52. Every tax and assessment imposed under any of the provisions of this act or of any ordinance or resolution authorized by this act shall be a lien upon all real estate against or concerning which the same shall be assessed for ten years from the final assessment or imposition thereof, superior to any mortgage, judgment or other lien of any nature, except general city and school taxes affecting the same and shall have priority thereto, or to any conveyance thereof and notice to the occupant or tenant shall be held to be deemed notice to the owner or owners of said real estate.

§ 53. The city chamberlain is hereby authorized to receive the warrant issued by the board of supervisors of Tompkins county, and to collect the tax levied by them, and the additional per centum, the same in all respects as a town collector, and the board of supervisors of Tompkins county are directed to issue their warrant to the said city chamberlain for the collection of said tax.

TITLE V.

CITY COURT.

ARTICLE 1.

GENERAL PROVISIONS.

Section 54. City court of Ithaca created.
55. City judge shall be an attorney.
56. Clerk of city court; salary; fees to be paid to city chamberlain.
57. Common council to provide offices, and for payment of salaries.
58. City court to remain open during business hours; vacation of city judge; disability of city judge.
59. Salary of city judge; moneys collected to be paid to city chamberlain.
60. Acting city judge.
61. Bond required.
62. Removal.
63. No justices of the peace to be elected.

ARTICLE 2.

CIVIL JURISDICTION.

Section 64, 65. Civil jurisdiction of city court.
66. Summary proceedings.
67. Jurisdiction over person of defendant.
68. Judgment, how rendered.
69. Failure to interpose counterclaim.
70. Counterclaim.
71. Code of civil procedure, certain sections to apply.
72. Discontinuance of action.
73. Summons and practice; process, et cetera, how signed
74. Attorney's authority, how conferred.
75. Adjournments.
76. By whom summons may be served.
77. Pleadings, verification, how made.
78. Rules of practice.
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Section 80. Defaults.
81. Fees of constables.
82. Costs and fees.
83. Costs in certain actions.
84. Additional allowance in certain actions.
85. Fees of city judge, for use of city.
86. Civil court docket.
87. Jurisdiction in case of absences, et cetera.

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CRIMINAL JURISDICTION.

Section 88. Criminal jurisdiction of city court.
89. Jurisdiction as court of special sessions.
90. Jurisdiction of misdemeanors, committed partly in city; committed on vessels; committed on railway cars.
91. No jurisdiction of misdemeanors outside of city.
92. In jurisdiction of offenses beyond ordinary court of special sessions, sentences as in court of sessions.
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94. May let to bail; administer oaths.
95. Hearing and jurisdiction by acting city judge.
96. Processes and mandates; by whom served; fees.
97. Fees, fines and penalties.
98. Account to be kept; bills against county.
99. Criminal court docket.
100. Process, et cetera, how signed.
101. Appeals.

ARTICLE 1.

GENERAL PROVISIONS.

§ 54. The city judge, created by this act, shall hold a court in the city of Ithaca, of civil and criminal jurisdiction, to be denominated "City Court of Ithaca," which is hereby constituted in said city. He shall be elected at the time and in the manner hereinbefore provided.

§ 55. The city judge shall be an attorney and counselor of the supreme court of the state of New York of not less than three years' standing.

§ 56. The city judge shall appoint a clerk of said court, who shall be a competent stenographer, who may be removed by the city judge whenever he shall deem it advisable, and may engage another clerk from time to time to serve in the absence of the regular clerk. The clerk of said court shall receive an annual salary not exceeding the sum of five hundred dollars, to be paid in equal monthly instalments. The regular clerk, and each clerk acting during the absence of the regular clerk, during the period of his employment as such, shall be an officer of the court, and shall, on entering upon the discharge of his duties, subscribe and take the oath of office prescribed by the constitution of this state, and file the same with the city clerk. It shall be the duty of said clerk to attend upon said court at such times as he is directed so to do by the city judge, and to keep the dockets and books of account thereof and to make up the returns to the county court therefrom under the direction of the city judge. He shall have power to take affidavits for use in said court, and to issue summons and precepts in summary proceedings, subpœnas, and executions on judgments duly docketed, and final orders in summary proceedings duly entered, and in the absence of the city judge and acting city judge to join issues and adjourn cases. Such clerk shall furnish a typewritten copy of the testimony and other proceedings taken by him in any case in which such testimony and proceedings shall have to be returned to the county clerk, which typewritten copy shall be a part of the return. Such clerk shall take the minutes of all trials and proceedings, civil and criminal, held in such court whenever directed so to do by the city judge, and shall also, at the direction of said city judge, furnish him with a transcript of such minutes. Said clerk shall also furnish to any person asking therefor a typewritten copy of any testimony or proceeding of which he shall have taken notes, at the rate of three cents per folio for each copy of the same. All fees for typewritten copy of any testimony or proceedings collected by the said clerk during any month shall be paid to the city chamberlain on or before the sixth day of the next succeeding month, and the said clerk shall file with the city clerk at or before the time of the first regular meeting of the common council in each month next after

the sixth day thereof, a complete and detailed statement, verified by his oath to be true, of all moneys payable to the city chamberlain by virtue of the provisions of this title, which were received by him during the next preceding month, with the receipt of the city chamberlain for said moneys attached to said statement.

§ 57. The common council shall provide suitable offices for holding said city court, and shall furnish heat, light and suitable furniture for the same, and provide necessary blank books, blanks and stationery therefor, and provide for the payment of the salary of the city judge and clerk of the city court, and for all other necessary expenses of said court, all of which shall be a city charge. And in default of such provisions or any of them being made by the common council, any justice of the supreme court residing in the sixth judicial district of the state is authorized, on application of the city judge showing such default, to make such provision by an order which shall be of the same effect as though the directions contained therein had been made by the common council, and the expense thereof shall be a city charge.

§ 58. Said city court shall be open for the transaction of business each day except Sundays and legal holidays. It shall be the duty of the city judge to attend at his office at all reasonable hours and to hear all matters, issue all process, and institute such proceedings as the proper administration of justice requires. The city judge shall be entitled, without deduction of his salary, to a vacation of fifteen days in each year. And in case of sickness, absence from the city, or disability of the city judge, the duties of such city judge shall be performed by the acting city judge appointed as hereinafter provided.

§ 59. The city judge shall receive for his services rendered under this act an annual salary of fifteen hundred dollars, less a pro rata deduction for each day the said court is by the next preceding section of this act required to be kept open on which he shall have failed from any other cause than illness, and his fifteen days' vacation, to attend the same; and such salary shall be paid to him by the city in twelve monthly installments. Pro rata deduction from the salary shall be made for all absence on account of illness in excess of ten days in each year. All costs and fees and all fines and penalties, and all other moneys collected by the said judge, or acting city judge, during any month shall be paid to the city chamberlain on or before the sixth day of the next succeeding month, and the city judge, and acting city judge, shall

file with the city clerk, at or before the time of the first regular meeting of the common council in each month next after the sixth day thereof, a complete and detailed statement, verified by his oath to be true, of all moneys payable to the city chamberlain by virtue of the provisions of this title, which were received by him during the next preceding month, with the receipt of the said chamberlain for said moneys attached to said statement. Any failure or omission to so pay over such costs, fees, fines, penalties or other moneys shall be sufficient cause for removal of said city judge or acting city judge.

§ 60. At the first meeting of the common council in January in each year, it shall be the duty of the mayor and common council of the city of Ithaca to appoint some suitable person, who shall possess the qualifications of the city judge as in this act provided, to act as judge of the city in case of the sickness, absence from the city or disability of the city judge; and who may be removed by the common council whenever said council shall deem it advisable. While so acting the said acting city judge shall sign all papers as "acting judge of the city court of Ithaca," and shall have all the powers and perform all the duties incumbent upon the city judge. The compensation of said acting city judge shall be such sum as the common council shall determine, not exceeding the sum of five dollars for every day actually spent in the discharge of the duties provided for in this act, to be audited, allowed and paid by the common council upon the presentation by such acting city judge of a verified bill of items for his services. Claims for such services, if any, shall be presented to the common council monthly.

§ 61. The city judge shall, before entering upon the performance of his duties, as such, execute and file with the city clerk a bond to the city of Ithaca, in the penal sum of one thousand five hundred dollars, and with such sureties as shall be approved by the common council, conditioned that he will faithfully discharge the duties of his office and account for and pay over to the city chamberlain all moneys received by him as such city judge. The acting city judge shall give a similar bond, with sureties, to be approved by the common council, in the penal sum of seven hundred and fifty dollars.

§ 62. A city judge elected as provided in this act, may be removed from office in the same manner as a justice of the peace, as provided by section seventeen of article six of the constitution

of the state of New York and by section one hundred and thirty-two of the code of criminal procedure.

§ 63. No person shall hereafter be elected to the office of justice of the peace in the city of Ithaca.

ARTICLE 2.

CIVIL JURISDICTION.

§ 64. Said city court shall have jurisdiction of the following civil actions and proceedings:

a. An action to recover damages upon or for breach of a contract, express or implied, other than a promise to marry, where the sum claimed does not exceed five hundred dollars.

b. An action to recover damages for a personal injury or an injury to property, where the sum claimed does not exceed five hundred dollars.

c. An action or proceeding to recover a fine or penalty not exceeding five hundred dollars, or to recover one or more fines or penalties for a violation of an ordinance of the city of Ithaca, or of any of the provisions of the other titles of this act, where the amount claimed does not exceed five hundred dollars.

d. An action upon a bond conditioned for the payment of money, where the sum claimed to be due or sought to be recovered in the action does not exceed five hundred dollars.

e. An action upon a surety bond taken in said court or by any justice of the peace.

f. An action upon a judgment rendered in said court, or in a court of a justice of the peace, or in a district court of the city of New York, or in a justice's court of a city, being a court not of record.

g. An action to recover one or more chattels, without or with damages for the taking, withholding, or detention thereof, where the value of the chattel or of all the chattels as stated in the affidavit made on the part of the plaintiff does not exceed five hundred dollars.

h. To render and enter judgment upon the confession of a defendant or defendants, as prescribed in title six, chapter nineteen of the code of civil procedure, where the sum confessed does not exceed one thousand dollars.

i. In an action for damages for fraud in the sale, purchase or exchange of personal property, if the damages claimed do not exceed five hundred dollars.

j. In an action commenced by attachment pursuant to the provisions of article four of title two of chapter nineteen of the code of civil procedure, if the debt or damages claimed do not exceed five hundred dollars.

k. In summary proceedings under title two of chapter seventeen of the code of civil procedure to recover possession of real property and to remove tenants and others therefrom, provided such real property or some portion thereof be in the city of Ithaca.

l. In actions or proceedings under any statute for the enforcement of liens or* mechanics and others, where the amount of the lien does not exceed the sum of five hundred dollars; the same proceedings to be had as are provided by law to be had in justice's court.

m. In any other action or civil proceeding of such character that a justice of the peace of a town would have jurisdiction thereof, wherein the sum sought to be recovered does not exceed five hundred dollars.

n. In any action to recover a tax, assessment, or other charge imposed by this act.

§ 65. But such court cannot take cognizance of a civil action in either of the following cases:

a. Where the title to real property comes in question as prescribed in title three of chapter nineteen of the code of civil procedure. But when such question arises the pleadings and practice shall be the same as are now provided by law for justice's court in regard thereto.

b. When the action is to recover damages for false imprisonment, libel, slander, criminal conversation, seduction or malicious prosecution.

c. Where, in a matter of account, the sum total of the accounts of both parties, proved to the satisfaction of the court, exceeds one thousand dollars.

d. Where an action is brought against an executor or administrator as such, except where the amount of the claim is less than the sum of two hundred and fifty dollars, and the claim has been duly presented to the executor or administrator and rejected by him.

§ 66. Summary proceedings may be commenced by petition addressed either to said judge or to said court, and in said proceedings and in all actions, the jurisdiction of the said judge shall be exercised by and in the name of the said court only, and all

* So in original.

processes from said court shall be made returnable thereto by its proper title. In the solemnization of marriages, and in all other matters not otherwise by this act provided for, said city judge shall have the same powers as justices of the peace in towns now have.

§ 67. Said court shall have the same jurisdiction over the persons of defendants as is now possessed by justices' courts of towns pursuant to the provisions of section twenty-eight hundred and sixty-nine of the code of civil procedure, and for the purpose of conferring jurisdiction of the person the said city of Ithaca shall be deemed a town and said court a justice's court thereof.

§ 68. A judgment of said court shall be in all respects the same as a judgment rendered by a justice of the peace of towns, except as herein provided, and all provisions of the code of civil procedure in relation to filing transcripts of such judgments and docketing the same in the office of the clerk of Tompkins county, or of any other county, and the effect of such judgment when so docketed, shall in all respects be the same as if said judgment was recovered before a justice of the peace of a town, and when so docketed shall be a lien and remain in force for the same length of time as a judgment originally recovered in the county court. In any case in which by law a justice of the peace is required to render judgment and enter the same in his docket, within four days, the city court of Ithaca, or the judge thereof, is required to render judgment, and it must be entered in the docket of said court, within ten days after the case shall have been submitted for final decision, anything to the contrary herein notwithstanding.

§ 69. The prohibition contained in section twenty-nine hundred and forty-seven of the code of civil procedure relating to the failure of the defendant in an action in justice's court to interpose a counterclaim applies to an action in the city court, but it does not apply to a case or action in said court where the amount of the counterclaim is more than five hundred dollars.

§ 70. In the case provided for in section twenty-nine hundred and forty-nine of the code of civil procedure for justice's court, if the amount of the counterclaim established exceeds the plaintiff's demand, the defendant must have judgment for the excess, or so much thereof as is due from the plaintiff, unless it is more than the sum of five hundred dollars, and if it be more than five hundred dollars, the city court must pursue the same course

in reference to the same as in the said section provided for a case in which it is more than two hundred dollars.

§ 71. Sections five hundred and five and five hundred and six of the code of civil procedure shall apply to a counterclaim in an action against a person sued in a representative capacity, or in favor of an executor or an administrator, except that the defendant cannot take judgment against the plaintiff upon a counterclaim for a sum exceeding five hundred dollars and costs, and section twenty-nine hundred and forty-six of the code of civil procedure shall not apply to actions in said city court.

§ 72. Where, upon the trial of an action, the sum total of the accounts of both parties proved to the satisfaction of the city judge, exceeds one thousand dollars, judgment of discontinuance must be rendered against the plaintiff, with costs, and section twenty-nine hundred and fifty of the code of civil procedure shall not be applicable to the said city court.

§ 73. The summons, the form thereof and the time within which the same shall be returnable, and all other process, the service of process, appearances, practice, pleadings, exhibiting account or demand, amendments, adjournments, trial by court or jury, obtaining jury, offers to compromise, offers of judgment and the effect thereof, judgments by confession or otherwise, and the rendering and docketing of the same, appeals, fees, costs and disbursements, shall in all matters, except as herein otherwise provided, be governed by the provisions of the code of civil procedure for justices' courts as said provisions now exist or may hereafter be amended by the legislature of the state of New York, except that section two thousand eight hundred and ninety-three of the code of civil procedure shall not apply to or govern proceedings in the city court. The said judge and the said court shall have the same duties, powers and jurisdiction as justices of the peace in towns and their courts, together with the further powers and jurisdiction by this act conferred, except as herein otherwise provided. All summons, precepts, orders and all other process or documents made or issued by the city judge, shall be signed, in addition to his signature, "city judge of the city of Ithaca." When made or issued by the acting city judge, the same shall be signed in addition to his name, "acting city judge of the city of Ithaca."

§ 74. The attorney's authority may be conferred orally or in writing, but the city judge shall not suffer a person who is not

an attorney admitted to practice in the supreme court of this state to appear as an attorney, unless his authority is admitted by the adverse party, or proved by the affidavit or oral testimony of himself and another, and the city judge may, in his discretion, at any time before final judgment, require from any attorney admitted to practice in the supreme court proof of his authority to so appear.

§ 75. The court must, upon the application of the plaintiff, grant a second or subsequent adjournment of the trial of the action, or hearing of the proceeding, upon proof, by his own oath or otherwise, to the satisfaction of the court, that he cannot safely proceed for want of some material testimony or witness, and that he has used due diligence to obtain the testimony or witness. But the court may, as a condition of granting such adjournment, require that the plaintiff pay to the defendant the legal fees of defendant's witnesses duly subpœnaed for that day, and not exceeding two dollars in addition thereto, or such part of such additional sum as may be just.

§ 76. The summons, or summons and complaint, or other process may be served by any person qualified to serve such papers in an action in a court of record, and when service is made by any person other than a constable, or when the city is plaintiff by a police officer, proof of service shall be made as in a court of record.

§ 77. The complaint may be verified in the manner provided by the code of civil procedure for the verification of pleadings in courts of record, and in an action commenced by summons may, at the option of the plaintiff or his attorney, be served therewith. When the complaint is so verified, the subsequent pleadings, excepting a demurrer, shall be likewise verified in all cases in which such pleading would be required to be verified in a court of record; and in default thereof they shall be disregarded. In an action arising on contract for the recovery of money only, or on an account, where the complaint is so verified and a copy of the same is served with the summons, and the defendant fails to answer said complaint as hereinbefore provided, at the time of the return of said summons, he shall be deemed to have admitted the allegations of the complaint as true, and the court shall, upon filing the summons and complaint, with due proof of the service thereof enter judgment for the said plaintiff and against the defendant, for the amount demanded in such com-

plaint, with costs, without further proof. The city judge may, by general rule or otherwise, require any pleading made orally to be reduced to writing, and every pleading in writing shall be subscribed by the party making the same or his attorney, and shall be filed forthwith, or within such time as the city judge may designate.

§ 78. The city judge may, from time to time, establish such rules of practice for said city as he may deem necessary, not inconsistent with this act or with the code of civil procedure, which rules shall govern the practice in said court. The rules so established shall, before they become operative, be published twice a week for at least two successive weeks in one of the city papers published in the city of Ithaca.

§ 79. Appeals may be taken to the county court from judgments rendered in said city court the same as from judgments rendered by justices of the peace. Appeals may also be taken to the county court from an order of the city judge or court on an application to open a default made as in the next section provided, and the time within which such appeal may be taken and the practice thereon shall be the same as apply to appeals from a judgment of a justice of the peace, the affidavits read on such application constituting, for the purpose of such appeal, a part of the return of the city judge.

§ 80. In actions in the city court the city judge shall have power to open defaults and set aside judgments rendered and entered therein, and executions issued thereon, upon such terms as may be just, in a case where either party shall fail to appear on the return day of the process, or on any adjourned day, and the party in default satisfactorily excuses his default, but no further terms shall be imposed than the payment of the costs included in the judgment, and the sum of three dollars for opposing the motion. The application therefor shall be founded upon affidavits, and shall be made within twenty days from the entry of such judgment. Upon presentation of such application, the city judge shall issue an order returnable in not less than five days nor more than eight days, requiring the party in whose favor judgment was rendered to show cause, if any, why said judgment or execution, as the case may be, should not be set aside. A copy of said order and of the papers upon which the same is granted, shall be served upon the party in whose favor judgment was rendered, or upon his attorney, if one shall have

appeared in the action, not less than three days prior to the return day thereof. Pending such application and the determination thereof, the city judge may stay proceedings upon such judgment or any execution which shall have been issued. When a judgment shall be set aside, the action shall proceed as though no judgment had been rendered. The judgment, or an execution issued thereon by the city judge, and levy made thereunder, may, in the discretion of the city judge, be allowed to stand as a security for the satisfaction of any judgment which may finally be recovered in favor of the same party. Parties moving in the county court to open default or to obtain a new trial in said city court, in cases where a motion might have been made in said city court, as in this section provided, shall show that no such application was made in said city court.

§ 81. Constables and other persons who lawfully serve papers or execute mandates in any action or proceeding in said court, not within the jurisdiction of justices of the peace of towns, shall receive and be entitled to the same fees as are allowed to sheriffs in like actions and proceedings in courts of record.

§ 82. In all civil actions and proceedings brought in the city court the same costs and fees shall be paid, taxed and recovered as in actions or proceedings before justices of the peace. In addition thereto there shall be allowed to the prevailing party, as an indemnity, in case he has appeared by an attorney admitted to practice in courts of record of this state, and not otherwise, the following sums as costs:

a. On judgment for plaintiff upon default, to the plaintiff, three dollars.

b. On judgment for plaintiff otherwise than upon a default, to the plaintiff, three dollars, and an additional sum equal to ten per centum of the recovery, not to exceed twenty-five dollars.

c. If the plaintiff recovers judgment in any action in said court for the recovery of one or more chattels the sum allowed as additional costs therein shall be estimated upon the value of said chattels as assessed by the said court or jury.

d. If judgment of nonsuit is rendered for the defendant to the defendant, two dollars.

e. If a judgment is rendered for the defendant upon the merits after a trial, to the defendant, five dollars. And the court, in its discretion, may allow five dollars additional.

f. A defendant who recovers in said court a judgment upon a counterclaim therein, or obtains a judgment for the possession

or recovery of chattels sued for therein, is entitled, in addition to costs heretofore allowed said defendant, to recover a sum equal to ten per centum upon said recovery, or upon the value of said chattels, not to exceed twenty dollars.

g. No costs or fees shall be allowed or recovered in an action brought upon a judgment of this court, unless such action be brought more than five years after the recovery of the judgment sued on.

§ 83. In an action in which the complaint demands the recovery of property of the value of fifty dollars or more, or in an action in which the complaint or answer demands judgment for fifty dollars or more, exclusive of costs and disbursements, when an issue of law is raised by demurrer, the party in whose favor such issue may be decided shall be entitled to a sum, in the discretion of the city judge, not exceeding ten dollars, which shall, in case final judgment is awarded against him, be deducted therefrom.

§ 84. In an action in which a trial is had and judgment rendered for two hundred and fifty dollars or more, the city judge may, in his discretion, grant to the successful party an additional allowance of costs, not exceeding ten dollars. All costs and disbursements allowed to be taxed in any action or proceeding before justices of the peace in towns up to but not exceeding fifteen dollars, shall be included in the judgment as disbursements in addition to the costs hereinbefore provided, but in actions within the jurisdiction of justices of the peace in towns such disbursements included in the judgment shall not exceed the limits prescribed by section thirty hundred and seventy-six of the code of civil procedure for justice's courts.

§ 85. In each action and proceeding in the city court, the city judge shall demand and receive for the use of the city for each service rendered by him the same fees as justices of the peace of towns are or may be entitled to receive for a like service; and no such service shall be rendered by him until such fee shall have been paid therefor. In the case provided for in section thirty hundred and eighty-one of the code of civil procedure recovery shall be had from the city of Ithaca instead of the city judge.

§ 86. The city judge shall keep an account of all his proceedings, and in his docket a complete and accurate record of all process issued from and returned to said court, and of all proceedings in every civil action, and of all proceedings brought

therein or before him, and shall enter therein the judgment and decision of said court or judge. Such docket shall have the same force as evidence in courts of this state as dockets of justices of therein or before him, and shall enter therein the judgment and the peace in towns, and may be proved and certified in the same manner.

§ 87. The acting city judge, prior to trial, in any action or proceeding already instituted, shall have and retain control and jurisdiction only during the sickness, absence from the city or disability of the city judge. The city judge, or acting city judge, as the case may be, before whom the trial has actually commenced in any action or proceeding, shall retain power, control and jurisdiction therein until final determination in the city court; but in any such case either may adjourn the action or proceeding in the absence of the other from the city.

ARTICLE 3.

CRIMINAL JURISDICTION.

§ 88. The city judge of said city shall, in all criminal actions and proceedings and special proceedings of a criminal nature for or on account of offenses committed or charged to have been committed within said city, have all the jurisdiction and authority which a justice of the peace of any town would have, if such offense were committed or charged to have been committed in such town, exclusive of any other officer except the mayor of said city, and judges and justices of courts of record. The said city judge shall have exclusive jurisdiction and authority to hear, try and determine, summarily and without a jury, all charges and complaints against persons of disorderly conduct in said city, as defined by this act, or of such conduct in said city as constitutes such persons tramps, vagrants or disorderly persons as defined either by this act or by the statutes of this state. Whenever any person shall be brought before said city judge, either with or without warrant, charged with being such tramp, if said city judge is satisfied by the confession of such person, or by competent evidence upon such summary trial that such person is such tramp, the said city judge shall thereupon have jurisdiction and authority to render judgment convicting such person thereof, and imposing such sentence therefor as is provided by section one of chapter four hundred ninety of the laws of eighteen hundred eighty-five for such offense. Whenever any person is brought before such city judge either with or without warrant, charged with such

disorderly conduct, or with being either such tramp, such vagrant or such disorderly person, if said city judge shall be satisfied by the confession of such person or by competent evidence, upon such summary trial that such person has been guilty of such disorderly conduct, or is such vagrant, or such disorderly person, the said city judge may thereupon take such further proceedings thereon as a magistrate is authorized by the code of criminal procedure to take in such case, or the said city judge may, instead render judgment convicting such person of disorderly conduct or of being a vagrant or disorderly person as the case may be, and that he pay a fine not exceeding fifty dollars or be imprisoned not exceeding six months, or both, as the case may require, which judgment shall be enforced in the same manner, in all respects, as judgments of courts of special sessions are enforced. And in case of the conviction of any person for disorderly conduct, or as a vagrant or disorderly person, either upon summary trial or in the manner prescribed by the code of criminal procedure, the said city judge may commit such person to be imprisoned in the county jail, or in the Monroe county penitentiary, or in such other place of confinement as may be designated by the board of supervisors of Tompkins county.

§ 89. The said city judge is hereby empowered to hold courts of special sessions in said city and, subject to the power of removal provided for in sections fifty-seven and fifty-eight of the code of criminal procedure, courts of special sessions held by said city judge shall have, in the first instance exclusive jurisdiction to hear, try and determine all charges of misdemeanors committed within said city, which are enumerated in section fifty-six of the code of criminal procedure. Subject to the power of removal provided by section two hundred and eleven of the code of criminal procedure, courts of special sessions held by said city judge shall also have, in the first instance, exclusive jurisdiction to hear, try and determine all other charges of misdemeanors committed within said city.

§ 90. Courts of special sessions held by said city judge shall also (subject to removal as provided by section fifty-seven and fifty-eight of the code of criminal procedure if the misdemeanor is one of those enumerated in section fifty-six of said code, and otherwise subject to removal as provided by section two hundred and eleven of said code), have jurisdiction to hear and determine charges of misdemeanors committed as follows: Committed partly within and partly without said city, or when the acts, omissions,

or effects thereof which constitute or are requisite to the consummation of such misdemeanor occur partly within and partly without said city; committed in this state, on board of a vessel navigating a river, lake or canal or lying therein in the course of her voyage, or in respect to any portion of the cargo or lading of such boat or vessel, in case such river or canal passes through said city or any part thereof, or in case such lake is situated in or borders on said city, or such voyage terminates in said city or would terminate therein if completed; committed in this state in or on board of any railway engine, train or car making a passage or trip on or over any railway in this state, or in respect to any portion of the lading or freightage of any such railway engine, train or car, in case such railway engine, train or car, passes or has passed in the course of the same passage or trip, through said city or any part thereof, or where such passage or trip terminates in said city, or would terminate in said city if completed.

§ 91. Otherwise than as hereinbefore provided, courts of special sessions held by said city judge shall not have jurisdiction to hear, try or determine charges of misdemeanors not committed within said city.

§ 92. When a person shall be convicted by a court of special sessions, held by said city judge, of any misdemeanor of which such court has jurisdiction, but jurisdiction of which is not conferred upon courts of special sessions by the code of criminal procedure, the court of special sessions held by said city judge may render such judgment imposing such sentence therefor as a court of sessions might lawfully render and impose in case a conviction of such crime were had in a court of sessions.

§ 93. Except as hereinbefore provided, courts of special sessions held by said city judge shall have all the powers and jurisdiction conferred upon courts of special sessions by the code of criminal procedure, and shall be subject to all the provisions of said code relating to courts of special sessions.

§ 94. The said city judge shall have power to let to bail all persons charged with crime before him in all cases of felony when imprisonment in the state prison, on conviction for such felony, cannot exceed five years, and to institute all proceedings respecting bastardy in said city, and to hear, try and determine the same. He shall also have the same right, power and authority within the county of Tompkins to administer oaths and to take affidavits and acknowledgments that justices of the peace have.

§ 95. In case any warrant issued by the city judge shall be returned during his absence from the city or during his inability to attend to the duties of his office, any further proceeding may be had on such warrant before the acting city judge, herein provided for; and having once obtained jurisdiction over any matter, he may retain jurisdiction thereof and proceed to the determination of such matter.

§ 96. All processes and mandates issued by the city judge or the acting city judge requiring service, shall be served by the city police or by officers authorized by the law of this state to serve such processes and mandates, and when served by the city police they shall be served without fees for their own benefit, but they shall demand and receive for all process served by them properly chargeable to the county, the same fees as are provided by law for constables for like services. And they shall keep a correct account thereof, and the same shall be presented in the name of said city to, and audited by, the board of supervisors for the benefit of said city.

§ 97. The said city judge or acting city judge shall not receive for his own benefit any fee for services performed under this act, but he shall demand and receive in all proceedings before him for all services rendered by him as city judge or acting city judge, the same fees as are provided by law for justices of the peace of towns for like services, and all fees and charges, which may be legally payable whenever suits or proceedings pending before either of them shall be settled or dismissed by consent, including constable fees.

§ 98. The city judge and acting city judge shall keep an account of all such fees and fines, and all such criminal business done by either of them; and such portion of said criminal business as is by law chargeable to the county shall be made out by the city judge in an itemized bill as is required by law, and he shall annually, at the time for presentation of bills against the county of Tompkins, present in the name of said city, said account, properly made and verified, to the board of supervisors of said county, and said board shall audit said account to the city of Ithaca, and levy the same in the same manner as other county charges.

§ 99. The city judge and acting city judge shall keep a docket of all business done by either of them, with full items and dates, and with proper and convenient index; and such docket shall contain a record or brief statement of all convictions, acquittals

and judgments before either of them, and the same shall be open during office hours to public inspection when not in use.

§ 100. All processes, mandates, orders, commitments or other documents made or issued by the city judge, shall be signed, in addition to his signature, "city judge of the city of Ithaca." When made or issued by the acting city judge, the same shall be signed in addition to his name, "acting city judge of the city of Ithaca."

§ 101. Appeals may be taken from final orders and judgments rendered by the city judge, and by the courts of special sessions held by said city judge, as provided by the code of criminal procedure, and from judgments rendered by the city court held by said city judge, as provided by the code of civil procedure for appeals from justice's courts.

TITLE VI.

DEPARTMENT OF PUBLIC WORKS.

Section 107. Appointment of commissioners.
108. Terms of office of first commissioners.
109. Terms of office of successors; full term; commissioner serving six years ineligible for one year; not more than three to be of same political party.
110. Filling vacancies.
111. Removal from office.
112. To serve without compensation; reimbursed for expenses.
113. Official oath.
114. Election as mayor or alderman creates vacancy.
115. Mayor to preside without vote; vice-chairman.
116. Quorum; time of meeting; special meetings, how called.
117. City clerk to act as secretary; meetings to be public.
118. No contract except by majority vote; no obligation incurred or issued without resolution by majority; resolution to be recorded.
119. No dealings with a commissioner except by unanimous vote of all the rest, and concurring vote of the common council.
120. Superintendent of public works and other appointees; salaries.

Section 121. Superintendent not to be interested in contracts; violation ground for removal.
122. Board to appoint the city clerk; term to be fixed, and salary.
123. Enumerated departments under control of board.
124. General duty of efficiency and economy.
125. General powers.
126. Duty to keep maps and plans for inspection, with index.
127. May adopt plans for drainage, sewer and water extensions, and additional water supply.
128. Fix water rates, rules and penalties; income, how applied.
129. May adopt and execute plans as to creeks, water courses and bridges.
130. May adopt and execute plans as to parks and additional parks and acquire lands therefor.
131. May regulate parks; encroachments; rules and regulations; parks defined.
132. Control of cemeteries.
133. Board to be commissioner of highways; powers.
134. Excavations in streets.
135. Power as to sidewalks.
136. Owner may build sidewalks as required by the board.
137. Public buildings.
138. Garbage; collection thereof.
139. Snow, ice and dirt on sidewalks.
140. Sprinkling streets.
141. Right to use highways for water pipes.
142. Right to sell water for premises outside of city.
143. Right to grant use of sewers to persons outside of city.
144. Lighting of streets and public places.
145. Other departments as may be assigned.
146. Board given full power as to its departments, improvements and labor; may advertise for bids; letting; security.
147. Fiscal year; statement of required amounts of money.
148. Account to be kept of each department; transfers of funds prohibited.

Section 149. Quarterly statements.
150. Bills to be paid by city chamberlain.
151. Condemnation of lands.
152. Claims barred by condemnation.
153. Local improvements; assessments for benefits; confirmation; lien.
154. Grading and paving, portion to be paid by owners; curbs and gutters; sidewalks; sewers.
155. Rules and regulations.
156. Penalties for wrongful acts.
157. Penalties for violation of rules and regulations; how recovered.
158. Certain act a misdemeanor.
159. Bonds; issue thereof; sinking fund.
160. Substituted bonds; issue thereof; sinking fund.
161. Bonds representing sinking fund to be registered.
162. Substituted bonds; rate of interest; exemption from taxation; cancellation.

§ 107. The mayor shall nominate from the tax paying electors of said city and, by and with the consent of the common council manifested by the concurring vote of at least a majority of the members thereof, shall appoint six commissioners who, with the mayor acting as the presiding officer, shall constitute the board of public works.

§ 108. The terms of office of the commissioners so appointed shall begin on the first day of January, nineteen hundred and nine, and shall terminate as designated by the mayor appointing them, so that one term shall expire on the first day of January in each year. Each commissioner shall continue in office until his successor shall have been appointed and shall have qualified.

§ 109. At the first regular meeting of the common council in January, nineteen hundred and ten, and at the first regular meeting of the common council in January of each year thereafter, the mayor shall, from the tax paying electors of said city, nominate, and by and with the consent of at least a majority of all the members of the common council manifested by vote, appoint one commissioner to fill the impending vacancy, which appointment shall be for the term of six years from the first day of January. A commissioner after serving six years shall be ineligible for one year. The appointment of such commissioners

shall be so made that no more than three commissioners, other than the mayor, shall belong to the same political party.

§ 110. A vacancy, other than by expiration of term shall be filled by the mayor, subject to the ratification of the common council, for the remainder of the unexpired term, by nomination and consent of the common council and appointment as provided in section one hundred and nine.

§ 111. Any commissioner may be removed from office by a two-thirds vote of the common council of the city, upon charges preferred in writing, served upon the commissioner against whom they are preferred, and after such commissioner has had a reasonable opportunity to be heard in his own behalf.

§ 112. The commissioners shall receive no compensation for their services but shall be reimbursed for expenses and disbursements necessarily incurred in transacting the business of the board, when duly authorized by the board and itemized.

§ 113. Each commissioner before entering upon the duties of his office shall take the oath of office prescribed by the constitution of this state and file the same with the city clerk.

§ 114. The election to and acceptance of the office of mayor or alderman in the city by any of the commissioners of the board shall create a vacancy in the board, to be filled as hereinabove provided.

§ 115. The mayor shall be the presiding officer of the board, and shall be entitled to vote upon all questions except the appointment of officers and employees. The board shall each year select by ballot one of its number to act as permanent vice-chairman, whose duty it shall be in the absence of the mayor, to preside over all meetings of the board, with the right to vote upon all matters.

§ 116. A majority of the members of the board, exclusive of the mayor, shall be necessary for the transaction of business; but less than a majority may regularly adjourn from time to time. The board shall meet at such time as may be expedient or as it shall from time to time designate. Special meetings may be called by the mayor or by any three members of the board by twenty-four hours' written notice, which may be given either personally or by mail addressed to the places of business or residence of said commissioners, respectively.

§ 117. The city clerk shall act as secretary of the board and keep a record of all meetings. The meetings of the board shall be open to the public, except when in the judgment of the board the public interest requires executive session.

§ 118. No contract involving the expenditure of moneys shall be made except by vote of a majority of the members of the board. No obligation shall be incurred, money expended, or issue of bonds demanded by the board except by resolution duly passed by a majority of the members thereof. In every case the resolution and vote thereon shall be recorded in full in the minutes of the board.

§ 119. No lands or rights shall be purchased of any member of the board for any of the purposes over which the board shall have control, nor any contract made with any member thereof for material or supplies to be furnished for any of the board departments, without a resolution of the board, adopted by an unanimous vote of all other members and the concurring vote of the common council.

§ 120. The board shall appoint a superintendent of public works and such engineers and other assistants as in its judgment are necessary, each to hold office during the pleasure of the board, subject to dismissal by the concurring vote of four members. The board shall fix the salaries and prescribe the duties of the superintendent, engineer and assistants.

§ 121. The superintendent of public works shall not directly or indirectly be financially interested in any work or contract for work to be performed for the city or furnish materials for the use of the city. A violation of any of these provisions shall constitute sufficient ground for removal from office.

§ 122. The board of public works shall appoint a city clerk to hold office either for a period not exceeding four years, or to hold office during the pleasure of the board as it may decide, at an annual salary to be fixed by it.

§ 123. The board of public works shall take charge and, subject to the limitations herein contained, have exclusive control of, the following departments of the city government, of the property belonging thereto, and of the appropriations made therefor:

1. Water.
2. Sewers and drains.
3. Streets and sidewalks.
4. Creeks and bridges.
5. Street lighting.
6. Parks.
7. Cemeteries.
8. Garbage.

9. Public buildings and property, but not buildings or property for use of the fire department or schools, nor the erection, alteration, repair or extension thereof, except in the fire department.

10. Such other departments as may be assigned to the board under the provisions of section one hundred and forty-five of this act.

§ 124. It shall be the duty of the board, within the means at its disposal, to secure the greatest possible efficiency and economy in each of the said departments, and to maintain, improve and extend the property and equipment thereof.

§ 125. The board may enter upon any lands for the purpose of survey and examination; may contract for, purchase and acquire, by grant, purchase, gift, condemnation or otherwise, in the name of the city of Ithaca, all lands, water rights, easements, privileges and franchises, and all other real and personal property whatsoever, either within or outside of the corporate limits of the city of Ithaca, which is necessary in the judgment of the board, for any of the purposes herein set forth; and shall have the right to enter upon, take possession of, and appropriate, all such property, and to do any and every act or thing that may be necessary to carry out the full intent and purpose of all the provisions contained in this act.

§ 126. The board shall have charge of and keep, always subject to inspection, all maps and plans now owned or hereafter acquired by the city, relating to the several departments in its charge. It shall cause to be made and kept revised a convenient index to said maps, and also to the papers in its office, showing readily where each map or paper may be found.

§ 127. The board shall have the power to adopt and execute plans for the drainage of the city and for the extension and improvement of the present sewer and water system, and for providing any additional water supply and system that may be deemed necessary.

§ 128. The board shall from time to time fix and determine the water rates to be paid by all consumers of water; and shall provide rules and penalties for the collection thereof by the city chamberlain. The income derived therefrom shall so far as necessary be applied to the payment of the cost of maintaining, operating, and extending the system of water works and the payment of the principal and interest falling due on the water bonds now outstanding or hereafter issued.

§ 129. The board shall have power to adopt and execute plans for the purpose of controlling and regulating the flow of water in the creeks and water courses, and properly protecting them against overflow, and for providing relief channels or additional water courses and bridges for the same, as the board shall deem for the best interests of the city; to alter, deepen, widen and change the direction of the channel or current of creeks or water courses, or any of them; to increase, diminish, entirely prevent or change in any manner the customary flow of water, and to cause the same to flow against or upon any other land; to build walls, embankments or levees, and if deemed necessary or advisable, to make them of sufficient width for the construction of streets, alleys or driveways thereon. It shall take charge of and have control over all permanent public improvements now constructed along water courses, maintain, alter, repair, improve and extend the same, and widen and deepen the channel thereof; shall have charge of all bridges, culverts and sluiceways, and build, rebuild or repair the same; and shall clean and keep free from obstruction all channels, ditches, and sluices thereunder.

§ 130. The board shall have power to adopt and execute plans for the laying out, improvement and maintenance of the parks, and providing additional parks either within or without the limits of the city of Ithaca; and for such purposes to acquire by gift, purchase or condemnation all or any of the lands within or without the limits of the city of Ithaca, which, in the judgment of the board, may be injurious or detrimental to the health of any of the inhabitants of the city; to lay out, cultivate and improve the lands so taken; to adopt and carry into effect such measures and devices as may, in the opinion of the board, be deemed necessary to prevent the growth or formation of disease-producing germs or organisms, or to otherwise render such lands not injurious or harmful to the health of any of the inhabitants of the city; and when such lands or any part thereof are so improved as to be no longer injurious or detrimental to the health of the inhabitants of the city, to sell and convey any part thereof deemed unnecessary for park purposes, the proceeds of the sale or sales of any such lands to be paid to the city chamberlain and be deposited by him in the park fund, to be used in the maintenance and improvement of all of the parks within or without the city of Ithaca, or in the procuring of other lands for park purposes.

§ 131. The board shall have the power to regulate and maintain public parks now established or hereafter laid out and established by the board; to preserve, adorn and protect the same; to prohibit and prevent encroachments thereon or injury to the trees, shrubs and adornments thereof; to adopt rules and regulations governing the purposes for which the parks or any of them may be used and enjoyed; to determine the place for planting, and the relative location of shade or ornamental trees in the parks; to determine the methods and manner of adornment of the parks, and in all things to have complete control and authority thereover. The word "parks" is hereby defined to include all public grounds, and places, except cemeteries, which shall have heretofore been under the control and supervision of the city of Ithaca, and all public grounds and places hereafter acquired by the city of Ithaca under the provisions of this act.

§ 132. The board of public works shall take charge and have control of all public cemeteries within the city limits, with power to preserve, adorn and protect the same; to establish such rules and regulations governing the care, maintenance, adornment and uses thereof as may be deemed necessary; to prohibit injury to or mutilation of any of the adornments or monuments therein, and to prescribe penalties for the violation thereof.

§ 133. The board shall be commissioner of highways in and for the city of Ithaca and shall have all the powers of commissioners of highways of the several towns of this state, subject to the provisions of this act, and shall have power to lay out, alter, discontinue, regulate, straighten, widen, pave, curb, clean and sprinkle the streets, highways, alleys, bridges and crosswalks, and to prevent the encumbering and obstruction of the same in any manner, and to protect them from encroachment or injury; and to construct sidewalks, or cause the same to be constructed, and to alter, repair, regulate, straighten, raise and lower the same, to cause the same to be kept free and clean from ice, dirt and snow, and prevent the encumbering, encroachment upon or obstruction of the same, as hereinafter provided. Before laying out any highway requiring condemnation proceedings, and before altering or discontinuing any highway, a public hearing shall be had after notice thereof has been given by publication at least once in at least two newspapers of the city of Ithaca, and by mailing the same to all the owners of lands through which said new highway is to run, or adjacent to the portion of any highway that is to be altered or discontinued.

§ 134. The board shall have the power to permit excavating in any public street or place in said city upon satisfactory surety being given to the board that the excavation so made will be properly guarded, and promptly filled, that any curbing or pavement removed shall be relaid with all convenient speed; that the city shall be held harmless from all claims, demands, suits, costs, and damages that may result by reason of the excavation, and that the street or public place so disturbed shall be restored to as good condition as existed before making the excavation, and shall be so maintained for a period of one year without expense to the board; the excavation to be made at such time and in such manner and under such superintendence as the board may prescribe in the order granting permission, in addition to the above requirements. Any expense incurred by the board in such superintendence, restoration or repairment shall be a lien, until paid, upon the premises or lot for the benefit of which the work was done; to be enforced the same as unpaid claims for the construction of sidewalks as hereinafter provided, and the board shall have a lawful demand against the applicant to whom such permission may have been given and may sue for and collect the same in the name of the city, and which when collected shall be paid to the city chamberlain and by him credited to the funds against which the expense is properly charged. During the progress of excavating at least one-half of the street, public place or land shall be kept open and free for the passage of persons and vehicles. No person or corporation shall make any excavation in any street, lane or public ground, or under sidewalks, without first obtaining such permit in writing.

§ 135. The board shall have power to construct or build any sidewalk, or portion thereof, in such manner and with such material as, in the judgment of the board, may be deemed best; repair any and all sidewalks upon any street or any portion thereof; regulate or change the width or space between the sidewalk and the curb line of any street, and have full power over the sidewalks now constructed or hereafter to be constructed upon any of the streets, highways, alleys or other public places in the city.

§ 136. The owner or owners of the property along or in front of which a sidewalk is to be built or rebuilt, shall, upon request in writing to the superintendent of public works, be given permission to build, repair or rebuild such sidewalk without expense to

the city, in conformity however with all the requirements of the board as to time of building, repairing or rebuilding, material to be used therefor, grade and location thereof, and manner and method of construction. If such requirements are not complied with, the board of public works shall make such sidewalk conform therewith at the expense of the owner or owners, to be collected in the manner provided for the removal of ice and snow.

§ 137. The board of public works shall have supervision over all public buildings now owned by the city or hereafter acquired by it, and shall provide for their heating and lighting; superintend the making of repairs and all alterations thereto; supervise the construction of all buildings that may be required for city purposes; and procure necessary equipment, with a general supervision and control over all matters pertaining to such buildings and equipment. The above powers of superintendence shall not be deemed to apply to that portion of public buildings occupied by fire companies (except the erection, alteration or extraordinary repair thereof), to fire apparatus, or to school buildings or equipment.

§ 138. The board of public works is empowered to take charge and have control of the collection and disposal of garbage in the city of Ithaca, and to adopt rules and regulations governing the collection thereof.

§ 139. The board shall have power to require all persons owning or occupying property in the city, and the owners of unoccupied property therein, to remove all snow, ice and dirt from the sidewalks in front of the premises so owned or occupied by them, and to keep the same free therefrom, and from any encroachment or obstruction; and in case of neglect or refusal on the part of such owner or occupant to remove the same, the board may perform the labor and thereupon make out and deliver to the city clerk a statement of the expense and description of the property, and the amount of such expense with ten per centum added shall be a lien or charge upon the lot, land or plot so described and the same shall be assessed to the owner of the property and added to the amount of the next annual city tax and collected in the same manner provided for the collection of taxes.

§ 140. The board of public works shall have power to cause any street in said city, or portion thereof, to be sprinkled in such a manner and at such times and seasons of the year as may be deemed advisable by the board, and assess the expense thereof to

the owners or occupants of the property assessed upon each side of the street or portion thereof as shall have been benefited thereby, according to the number of feet frontage. All such assessments shall constitute a lien upon the lands and premises thus benefited and be levied and collected in the manner provided for the collection of taxes.

§ 141. The board of public works and all acting under its authority shall have the right to use the ground or soil under any street or highway in the city, for the purpose of introducing water into and through any and all portions of the city, and such right shall be continuous for the purpose of repairing and relaying water pipes. Said board shall cause the surface of such street, highway or road to be restored to its normal condition.

§ 142. Said board of public works may, in behalf of the city, sell to a corporation or individual outside of the city, the right to make connections with the water mains for the purpose of drawing water therefrom, and shall fix the prices and conditions therefor; but the board shall not sell or permit the use of water under this section if or when thereby the supply or pressure for the city or any of its inhabitants will be insufficient.

§ 143. Said board of public works may also in behalf of the city sell to a corporation or individual outside of the city the right to make connections with and use the sewers of the city, and shall fix the prices, terms and conditions therefor; but no such right shall be granted or continued if or when thereby the sewers of the city, or any of them, be or become insufficient for the purposes of the city and its inhabitants.

§ 144. The board of public works shall have power to provide for the lighting of the streets, highways, alleys, public places and municipal buildings in the city, and for the protection and safety of the public lamps to prevent the same from being lighted or extinguished by persons not authorized so to do, and to provide rules and regulations concerning same, and penalties for wilful violation of the rules and regulations so prescribed or wilful injury of lighting appliances.

§ 145. The board of public works shall take charge and have control over such other department or departments as may from time to time be assigned to it by the common council of the city of Ithaca, and thereupon shall pass such rules and regulations as may be necessary for the proper management of the department or departments so assigned.

§ 146. The board of public works shall have the power in all of its departments to make improvements and perform any labor contemplated within said departments by the aid of its own servants and employees, or by contract. If the board shall determine to have any work performed and materials furnished by contract, in excess of five hundred dollars it shall advertise for bids upon the work to be performed and materials to be furnished, for at least twice a week for two successive weeks in one or more of the daily newspapers published in the city of Ithaca, and upon the coming in of the bids and the opening thereof at the time specified, the board may, as in its judgment deemed best, reject any or all bids submitted, or may let the contract for the particular work desired to the lowest responsible bidder. The board may require security or certified check to accompany the bids, assuring the execution and faithful performance of the particular contract upon which the bid is made.

§ 147. The fiscal year of the board shall begin on the first day of January in each year. The board shall, prior to the first day of March in each year, submit to the common council a statement of all salaries paid by said board and an estimate of the amount which in its judgment is required, in excess of all ordinary income, for the maintenance charge during the year in each department, and also the estimated amount needed for any permanent improvement, specifying the nature of such improvement. The board shall include in the estimated amount required for the water department the cost of water for fire and other municipal purposes.

§ 148. Each separate department shall be credited with the amount that shall be appropriated by the common council therefor, together with all other income received from such department; and charged with the expense thereof. Moneys appropriated for maintenance or for permanent improvements in one department may not be transferred to or used for any other purpose or in any other department, until the board has certified to the common council the transfer desired and the occasion therefor, and the common council has approved of such transfer. No contract shall be made or expense incurred in any department in excess of the amount appropriated to that department, and the members of said board shall be personally liable for all expenses or indebtedness incurred in excess of the appropriations by the common council to said board.

§ 149. The board of public works shall quarterly, and at such other times as may be required either by the mayor or by the common council, render to the common council an itemized statement of all its receipts and disbursements properly classified and showing the balance on hand at the beginning and at the close of the period covered; and at the close of each fiscal year it shall submit an annual statement, showing by suitable summaries, the cost and the income of each department. Whenever requested by either the mayor or by the common council, the board shall also furnish any additional information in regard to its work or the cost thereof.

§ 150. All bills incurred by the board of public works, and all amounts payable out of the moneys appropriated to the use of the board and out of the income derived from the operation of the water plant or from any other department in charge of the board, shall be paid by the city chamberlain on the audit and order of the board.

§ 151. Whenever the board shall have determined to take and appropriate any lands, interests or easements, deemed by it necessary in the execution of any plan or improvement adopted by the board, or in the execution of any part of any plan or improvement in any of the departments under the control and supervision of the board, which lands and rights shall not have been otherwise acquired, the board may proceed to the condemnation of the same pursuant to the provisions of titles one and two of chapter twenty-three of the code of civil procedure.

§ 152. All persons upon whom or in respect to whose lands, rights or easements condemnation shall have been had, are forever barred from maintaining any claim, right of action or proceeding to recover damages from the city of Ithaca by reason of the making of any improvements, alteration, or extension of improvement or work done by the board in any of the departments under its control, or of any change in the flow, of any stream or current, except in the condemnation proceedings by which said lands, or rights in land, were acquired.

§ 153. Whenever any improvement or any portion thereof in any of the departments within the power and under the control of the board, or of any board of which this board is the successor, shall have been completed or partially completed, or when any section thereof deemed sufficient for assessment purposes shall have been completed, and it shall appear to the board that property in the locality, whether immediately adjacent or more remote,

is especially benefited thereby, the board shall thereupon determine what portion, if any, of the expense of such improvement, including the damages, award or cost of acquiring lands and rights, not exceeding in its judgment, the amount of the benefit, shall be assessed upon the property benefited, and what portion, if any, shall be paid by the city at large; determine the area, district or territory benefited, and forthwith assess in proportion as nearly as may be to the benefits, the expense and damages, that are to be paid by local assessment upon the lots and parcels of land to be benefited thereby, to the several owners or occupants thereof when known, and when unknown, to the unknown owner of any such lots or parcels of land, describing the same, and shall make a written statement of such assessments and file it with the city clerk who shall give public notice in two newspapers published in the city, that the same has been left with him, and that the common council will, on a certain day therein specified, which shall be at least ten days after the first publication of said notice, proceed to confirm said assessments. Before the day specified said notice shall be published at least three times in each newspaper. At the time so specified, any person interested may appear before the common council and apply to have such assessments altered or corrected as justice may require. The common council may thereupon alter, correct and confirm such assessments without further notice, and when so confirmed, the amount of each assessment shall be a lien upon the real property upon which it is assessed. The common council may prescribe and proportion deferred payments, make such regulations therefor as may be deemed advisable, and provide for adding to the deferred payments, the same percentages, fees and expenses as in this act provided in the assessment, levy and collection of the city tax.

§ 154. The expenses of grading, paving or repaving any street shall be paid, one-third by the city of Ithaca, out of the street and sidewalk fund, two-thirds by the owners or occupants of property fronting or adjoining the street thus improved in proportion to the frontage thereon. Expenses of building, laying or resetting curbs and gutters shall be paid one-third by the city of Ithaca, out of the street and sidewalk fund, and two-thirds by the owner or owners of the property fronting or adjoining the side of the street upon which the improvement is made in proportion to the frontage thereon. The expense of constructing, repairing, relay-

ing, raising, lowering, or changing the location of any sidewalk shall be paid by the owner or owners of the property in front of which the improvement is made.

§ 155. The board of public works may make, alter and modify, publish and enforce, from time to time such rules and regulations, not inconsistent with the law, as may be deemed necessary for the conduct of all its departments, for the employment, dismissal, discipline and government of the persons employed by it, and for the government of its superintendent of public works and his assistants, and for the performance of all work authorized by it.

§ 156. The board may prescribe penalties for wilful or malicious acts by any person or persons whereby any of the property or rights under the control of the board in any of its departments shall be interfered with, impaired, obstructed or injured, and may enforce the penalties and recover the actual damages sustained thereby in the manner provided in this act, crediting the money so recovered to the department to which it properly belongs.

§ 157. The board may prescribe penalties, not exceeding fifty dollars for the violation of any of the rules and regulations adopted by it in any of its departments; which rules and regulations, when regularly adopted, may be enforced by action brought in the name of the city of Ithaca, and the amount so recovered shall be paid to the city chamberlain, and be credited to the department to which the moneys so recovered properly belong. No action shall be brought to recover any penalty for violation of any rule or regulation unless the same shall have been published prior to such violation at least twice a week for two successive weeks in one of the daily papers published in the city of Ithaca.

§ 158. Any act whereby any property, apparatus or appliances pertaining thereto, which shall be under the power and control of the board in any of its departments, shall be wilfully or maliciously injured, impaired or obstructed, or the water supply shall be rendered less pure, shall be deemed a misdemeanor, and the person or persons convicted thereof shall be punished accordingly.

§ 159. Whenever the board of public works shall consider it necessary to incur any indebtedness requiring that any bonds of the city of Ithaca shall be issued providing for a supply of water or in aid thereof, it shall certify to the common council the estimated amount so needed, which shall not exceed in the aggregate

of all bonds issued for water purposes the sum of one million one hundred thousand dollars, and the particular purpose or purposes for which required; and in case the said common council shall, by a majority vote of all its members, approve of the issuing of such bonds for the purpose or purposes set forth in said certificate, the board of public works shall by resolution cause bonds for the amount so certified to be issued in the name and upon the credit of the city of Ithaca, which bonds shall be executed by the mayor under the corporate seal of the city and countersigned by the city clerk. The faith and credit of the city of Ithaca, are hereby pledged for the payment of both principal and interest of any bonds lawfully issued heretofore or under and in pursuance of this act. Said bonds shall be issued in such denominations or amounts as the board of public works may deem expedient, bearing interest at a rate to be fixed by the board, not exceeding five per centum per annum, and shall be made payable on the first day of July, nineteen hundred and twenty-seven, either with or without the option on the part of the city of Ithaca to pay or refund said bonds on the first day of July, nineteen hundred and twelve, or at the expiration of any year thereafter. A sinking fund shall be provided for the payment within twenty years of that portion of said bonds which exceeds ten per centum of the assessed valuation of the real estate of the city subject to taxation, as it appeared by the assessment roll of said city on the last assessment for state and county taxes prior to the incurring of such indebtedness.

§ 160. The board of public works may at any time within two years prior to the date or dates when the bonds last aforesaid shall mature, or become payable pursuant to such option, issue in the manner hereinbefore set forth, new substituted bonds for the purpose of paying up and retiring the said bonds last hereinbefore provided for, when the same shall become payable. Said new substituted bonds shall be issued in such denominations or amounts as the board may deem expedient, but not less than one hundred dollars each, with interest at a rate to be fixed by the board within the limits hereinafter specified, payable semi-annually, both principal and interest to be made payable in the city of New York at a bank or trust company to be specified in each bond. Such portion thereof as shall be required to retire the bonds previously issued in excess of the said ten per centum limit shall bear interest at a rate not exceeding four and one-half per centum per annum, and

shall be due and payable on the first day of July, nineteen hundred and twenty-seven, and a sinking fund shall be created on the issuing of such bonds for their payment at maturity by raising annually a sum, which, with the sinking fund accumulated in connection with the original issue, will produce an amount equal to the sum of the principal and interest of such bonds at their maturity. Such portion of said new substituted bonds so issued and made payable July first, nineteen hundred and twenty-seven, as at or about the time of the issue of said new substituted bonds may be required to replace the water bonds then maturing, in which the accumulated sinking fund may then be invested, and also such portion thereof as may be required by the sinking fund commissioners for investment of funds then on hand, shall be issued to said sinking fund commissioners therefor, a like amount of new bonds being substituted for the bonds in the sinking fund so maturing, and the balance required being furnished at par. Such amount of the remainder of said new substituted bonds so issued and made payable July first, nineteen hundred and twenty-seven, as shall at the time of the issue thereof, in the judgment of the board of public works be necessary for the investment of the sinking fund in each of the intervening years prior to their maturity, shall be made subject to call by the sinking fund commissioners for such purpose, the several amounts to be so called during the intervening years to be definitely fixed by the board, and the exact date when each bond may be so called being specified therein.

§ 161. All bonds of the city of Ithaca maturing on the first day of July, nineteen hundred and twenty-seven, in which the sinking fund may be invested, shall at the time they are added to the sinking fund be registered in the name of the city and conspicuously stamped "non-negotiable." The interest coupons, if any there be, shall at the same time be removed and destroyed. The interest thereon shall be added to the sinking fund as it accrues.

§ 162. Such portion of said new substituted bonds as shall be required to retire the bonds previously issued not in excess of the ten per centum limit shall bear interest at a rate not exceeding four per centum per annum, and shall be due and payable in thirty years from the date of issue. In case such new substituted bonds shall be issued pursuant to this act, such bonds shall, until due, be exempt from taxation for town, county or municipal and state purposes. All bonds paid and retired shall be immediately cancelled.

TITLE VII.

FIRE DEPARTMENT.

Section 163. Incorporation.
164. Fire commissioners.
165. Organization as a board.
166. Its powers and duties.
167. Limit of expenditures.
168. Chief engineer and first and second assistants.
169. Election of first and second assistant engineers.

§ 163. All such persons as are now or shall hereafter be members of any fire company now organized in the city of Ithaca, or which may hereafter be organized by the board of fire commissioners herein provided shall be and continue a body corporate by the name of "The Ithaca Fire Department," and such corporation, through its board of fire commissioners, is authorized to purchase, receive by gift or otherwise hold and convey any real and personal property for the use of said corporation; provided, however, that the title of all real property shall be vested in the name of the city of Ithaca, and the purchase or conveyance of any real property shall be subject to the approval of the common council of said city.

§ 164. There shall be a board of fire commissioners, consisting of three commissioners appointed by the mayor and confirmed by the common council. The term of office of fire commissioner shall be three years commencing on the first day of July, one commissioner to be appointed each year. Such appointment shall be made at a meeting of the common council held in June each year. A commissioner shall hold office until his successor shall have been chosen and qualified. A vacancy for an unexpired term may be filled in the manner in this act provided. Permanent removal from the city or other cause, to be determined by the common council, rendering impossible the proper discharge of his duties as a commissioner, shall create a vacancy. The commissioners now in office shall continue until the expiration of the term for which they were respectively appointed.

§ 165. At their first meeting in July said fire commissioners shall organize as a board by electing one of their number as chairman, and the appointment of a clerk and such other officers and employees authorized, for the ensuing year. Said board shall hold such stated and special meetings at such time as they may

determine but at least once in each month. Two members of said board shall constitute a quorum. The fire commissioners shall serve without salary or compensation.

§ 166. It shall be its duty and said board of fire commissioners shall have power:

1. To assume entire control and management of all buildings, apparatus, alarm system, equipments, appliances, supplies and employees exclusively in the fire department service.

2. To appoint all compensated officers and employees of the department, except the chief and assistant engineers.

3. To determine, from time to time, what paid officers and employees shall be engaged, to prescribe their duties and fix their compensation.

4. To organize new companies and to disband any department company, subject to the approval of the common council. To admit new members and to transfer members, upon application and certification of company officers, from one company to another. To try, reprimand, suspend or expel any member or officer for cause.

5. To file with and certify to the city chamberlain each month all bills for expenses incurred by them for fire department purposes, and to file with the city clerk, immediately after the first meeting in January in each year, a detailed report of the expenses for the preceding year together with a certified list of all paid officers and employees in the service, together with the rate of wages or salary to be paid each such person. Any changes or additions in such list to be likewise immediately filed.

6. To submit to the common council, on or before the first day of May in each year, an estimate of the amount of money necessary to cover the expenses of maintenance of the department, including all salaries and wages, equipments and supplies, and for the maintenance, heating, lighting, and ordinary repairs of buildings.

7. To make and promulgate, from time to time, such rules, regulations and by-laws as it may deem necessary and expedient for the government and discipline of the department, not inconsistent with this act or the ordinances of the city of Ithaca or of the laws or constitution of this state or of the United States.

8. To be trustees of and set aside all moneys paid by insurance companies, except the amount payable to the Firemen's Association of the state of New York under the provisions of the in-

surance law, for the support and maintenance of the Firemen's Home at Hudson, New York, to be accumulated as a relief fund for indigent and disabled firemen, with power to draw upon such funds for temporary relief and benefits only as said board shall determine. Such moneys shall not be used for any other purpose. At the close of each fiscal year, and at such other times as the common council shall require, said board shall submit to the common council a detailed accounting of such funds. Any other moneys, gifts or property whatsoever acquired for such relief or benefit purposes shall be likewise held, disbursed and accounted for.

§ 167. Said board of fire commissioners shall in no year expend a sum or incur any indebtedness in excess of the amounts appropriated by the common council for the use of said fire department and such commissioners shall be personally liable for any expenditure or indebtedness incurred in excess of such appropriations.

§ 168. The present chief engineer and first and second assistant engineers elected by the department shall continue to exercise the duties and powers of their offices until the expiration of the terms for which they were respectively elected and until their successors are elected and qualify.

§ 169. As soon as practicable after the first day of December in each year said board of fire commissioners shall cause to be inserted in two of the leading newspapers of said city a notice that a caucus will be held on some specified day between the tenth day of December and the seventeenth day of December for the purpose of placing in nomination a chief engineer, a first assistant engineer and a second assistant engineer of said department. The several fire companies of said city shall on the last Wednesday of each year, at such place as shall be designated by said board of fire commissioners and between the hours of four o'clock in the afternoon and nine o'clock at night, hold an election, of which said board of fire commissioners shall act as inspectors. Notice thereof shall be given by two insertions in two of the leading newspapers of said city once each week before said election. At that time there shall be elected a chief engineer, a first assistant engineer and a second assistant engineer. Said board of fire commissioners shall canvass the vote cast at such election and make return thereon to the common council of said city at its next regular meeting and said common council shall thereupon approve or disapprove of the officers so elected; and if said council shall disapprove of any of said officers within two weeks

after being thus notified of such election, then the board of fire commissioners shall call a special election of said department, at which shall be elected other persons in place of the ones disqualified. The officers then elected at such second election shall hold office until their successors are elected and duly qualified unless removed for cause. The special election shall be held and the canvass and return of the vote be made in all respects the same as in the case of the regular election as hereinabove provided.

TITLE VIII.

DEPARTMENT OF EDUCATION.

Section 170. City one school district.
171. Commissioners; board of education.
172. Election of commissioners.
173. City chamberlain to be school collector.
174. Commissioners to take oath of office; vacancies, how filled.
175. Removal for misconduct; resignation.
176. Annual meeting; president; no compensation.
177. Regular meetings; special meetings, how called.
178. Appointive officers of the board; their duties; records of meetings; evidence.
179. Powers of board of education to raise funds by taxation.
180. Taxes; how assessed, levied and collected; bond of city chamberlain; notice to be published and posted.
181. City chamberlain to collect without compensation other than salary; to collect percentage additions; daily payment to treasurer of board; settlement with board.
182. Certain provisions of consolidated school laws applicable.
183. All moneys to be paid to the treasurer of the board.
184. All moneys to be deposited to credit of the board.
185. Drafts on county treasurer for various funds from the state.
186. Treasurer to pay out moneys on drafts of the board; make written statement, when required; settlement with board and payment to his successor.

Section 187. Board may prosecute official bond of city chamberlain or treasurer.
188. Powers and duties of the board enumerated.
189. Raising fund for new building; to be submitted to voters.
190. High school one of the academies of the state; subject to visitation of the regents; shall share in state funds.
191. Annual reports to state superintendent.
192. State superintendent to apportion school funds; same to be paid by county treasurer.
193. School to be free to residents; tuition required for nonresidents.
194. Board to be trustees of the school district library; its powers and duties in relation thereto; may appropriate two hundred and fifty dollars annually.
195. Title of school property vested in board of education; exemption from levy and sale; powers of board to take and hold property.
196. Annual statement to be published; contents.
197. Notice of city clerk of election or appointment; penalty for refusal to serve; for neglect of duty; prosecutions.
198. Board may appoint a superintendent of schools; prescribe his duties; his other duties; salary.
199. Conflicting acts repealed; power of state superintendent preserved; his decision of disputes final.

§ 170. All school districts and parts of school districts in the city of Ithaca shall, for the purposes hereinafter mentioned, form one school district, to be called the school district of the city of Ithaca. Said district shall not be altered except by legislative enactment.

§ 171. The present commissioners of the school district of the city of Ithaca, for the periods for which they were respectively chosen, or their successors in case of vacancies occurring before the expiration of such periods respectively, shall be commissioners of the school district of the city of Ithaca, and the said commissioners and their successors, chosen as in this act provided, are hereby continued a body corporate, styled the board of education of the city of Ithaca. A majority of the commissioners shall constitute a quorum.

§ 172. There shall be elected annually at each annual city election in said city, in the same manner as other general city officers are elected, and by vote of the inhabitants qualified to vote for such general city officers, or qualified to vote as provided by the consolidated school law of the state, four commissioners, to fill the places of those whose terms of office expire on the first day of January next succeeding such election. The commissioners shall hold their respective offices for the term of three years from the first day of January next succeeding their election, and until their successors shall be elected and enter upon the duties of their office, respectively.

§ 173. This act shall not be so construed as to disqualify any comissioner aforesaid for re-election. The city chamberlain of the city of Ithaca shall by that title be the collector ex-officio of the said school district of the city of Ithaca, and his duties, authority and jurisdiction shall extend to all taxes levied by the said board of education of the city of Ithaca during his term of office as such city chamberlain, and shall continue until his final settlement with said board of education as required by section one hundred and eighty-one of this act. Said city chamberlain with reference to said taxes shall also perform the duties, possess the powers, and be subject to the obligations prescribed by law for town collectors, except as herein otherwise provided.

§ 174. The commissioners elected by virtue of this act, before entering upon the duties of their office, shall each take the oath of office prescribed by the constitution of this state, before the clerk of the city of Ithaca, who is hereby empowered to administer said oath, and said clerk shall file the same among the records of the city. The board of education shall have power and it shall be its duty to fill any vacancy in the said board which may occur from any other cause than the expiration of term of office, the commissioner so appointed to hold office until a successor is duly elected to fill such vacancy, and qualifies.

§ 175. Any member of the board of education may, for neglect of duty, or either immoral or official misconduct, be removed from office by the board, by a vote of two-thirds present at any regularly called meeting thereof; but before final action thereon, a written copy of the charges preferred against said member shall be served upon him, and he shall be allowed an opportunity to explain or refute them. Any member of said board may resign his office by giving one month's previous notice, in

writing, to the said board, which may, if it deem the reason sufficient, accept the same.

§ 176. At each annual meeting of the board it shall elect one of its number president of the board, and whenever he shall be absent, or unable to act, it shall appoint a president pro tempore. The board shall fix the time for its annual meeting, and, unless changed by a resolution of the board, the time thus fixed shall be the time for future annual meetings. The commissioners shall receive no compensation for their services.

§ 177. The board of education shall meet for the transaction of business as often as once in each month, and may adjourn for any shorter time. Special meetings may be called by the president, or, in case of his absence or inability to act, by any member of the board, as often as necessary, by giving personal notice to each member of the board, or by mailing a written or printed notice to his address, at least twenty-four hours before the time for such special meeting.

§178. The board of education shall appoint a secretary, treasurer and librarian and such other officers as in the judgment of the board of education may be deemed necessary, who shall hold their offices during the pleasure of the board, and whose compensation shall be fixed by the board; and the same person may hold two or more of such offices. The secretary shall keep a record of the proceedings of the board and perform such other duties as the board may prescribe. The treasurer shall, before entering upon the duties of his office, furnish a bond acceptable to the board of education in such penal sum as may be fixed by it, and said board shall have power to increase the amount of said bond whenever in its discretion said board may regard it advisable. The librarian shall have full charge of the library or libraries of the district, and may appoint such assistants as may be necessary, from time to time, and such assistants may be removed at any time by the board of education. The record of the proceedings of the board of education, or a transcript thereof certified by the secretary, shall be received in all courts as prima facie evidence of facts therein stated, and such record, the books, accounts, vouchers and papers of the said board shall at all times be subject to the inspection of the common council of the city, or any committee thereof, or any taxpayer, and a transcript thereof may be taken. The board of education may by resolution prescribe the duties of any of its appointees, in addition to the duties specified in this title.

§ 179. The board of education shall have power, and it shall be its duty, to raise, by tax to be levied upon all the real and personal estate in said school district, which shall be liable to taxation for school purposes, such sums as may be determined to be necessary and proper, for any or all the following purposes, for the current year:

1. To purchase, lease or improve sites for schoolhouses.

2. To build, purchase, lease, alter, and repair schoolhouses, outhouses and appurtenances thereto belonging.

3. To purchase, exchange, improve and repair school apparatus and provide suitable and necessary text books for the pupils of the several schools under its care; provided, however, that it shall be optional with said board of education to provide suitable and necessary text books for the pupils attending the high school.

4. To procure fuel and defray the necessary expenses in keeping the schoolhouses in order, exclusive of repairs, including insurance.

5. To defray the contingent expenses of the several schools and the district library or libraries, including salary of librarian and superintendent.

6. To defray the contingent expenses of the board of education, including the salary of the treasurer and secretary thereof.

7. To pay teachers' wages after the application of the public money appropriated by law for that purpose.

8. To pay charges or expenses incurred by law, or necessary to carry this act into effect, or to refund loans contracted by law, and to pay the interest thereon, or to pay such sums as shall be required to fulfill any contract duly made under the provisions of this act.

§ 180. The tax aforesaid and all of the taxes to be levied and collected by virtue of this act, shall be assessed and the tax list made out and delivered to the proper officer for collection, within thirty days after the same shall have been voted. The said tax list shall be made out by the board of education upon the basis of the last assessment-roll of the city, including in such tax list all property on said roll liable to taxation for school purposes, except that the board of education may for such purpose amend and correct any error which may have been discovered in said roll. The board of education shall attach to said tax list its warrant for its collection, directed to the city chamberlain and signed by the president and secretary of the board. Before the

delivery of the warrant to him the city chamberlain shall execute and deliver to the board of education a bond in a penalty fixed by the board, with a surety company as surety, to be approved by the board, conditioned for his honestly and faithfully discharging his duties as specified in this title, in the collection of school taxes and percentage additions, and accounting for and paying over all such money which shall come into his hands as such city chamberlain. The premium expense of such bond shall be paid by the board of education. The said warrant shall be the same in form as a warrant issued by the trustees of a school district of the state, and it shall have a like force and effect as are given to a warrant of the trustees of a school district by the general laws of this state. The board of education may renew, from time to time, as it shall deem proper, any warrant issued for the collection of any tax assessed by them by virtue of this act. The board of education, upon delivering any tax list and warrant to the city chamberlain, shall retain a copy of the same and shall take a receipt from the city chamberlain for the said tax list and warrant, which receipt shall specify the amount and the percentage additions to be collected, and the return day of the said tax list. The board of education shall also, immediately upon the delivery of any tax list to the city chamberlain, publish a notice thereof in two of the city papers, stating that until a date therein specified, which shall be not less than one month after the first publication, the city chamberlain will collect and receive said taxes at his office without percentage. At least five copies of said notice, in large type, shall be posted in at least five public places in each ward of the city at least one month before said date specified.

§ 181. The city chamberlain shall receive no compensation other than the salary in this act provided, for receiving or collecting any money by virtue of said tax list and warrant. For one month next after the expiration of the time specified in said notice the city chamberlain is authorized to, and he shall, collect and receive on all sums unpaid three per centum in addition for the benefit of the board of education, and on all sums thereafter unpaid five per centum in addition for the benefit of the said board. He shall daily pay to the treasurer of the board of education all taxes and percentages collected or received. He shall settle with the board of education at its first regular monthly meeting after the final expiration of said warrant and shall ac-

count to it for all moneys received by him upon the tax list delivered to him. He shall also comply with section seventy-two of title seven of the consolidated school law the same as is required of the collector of any other school district of the state, in which case the board of education shall credit him with the amount to which he shall be entitled by virtue of the said section.

§ 182. It shall be the duty of the board of education to proceed with the account of money so credited to the city chamberlain, the same as trustees are directed to do under like circumstances by section seventy-three, title seven of the law aforesaid. All the provisions of sections seventy-four, seventy-five, seventy-six and seventy-seven of said title seven of the aforesaid law shall have the same application to the taxes of this school district as to those of other school districts of the state. The board of education shall also have the same power to sue for and collect any tax as is given by section eighty-five of said title seven of the aforesaid law to trustees of school districts.

§ 183. All moneys raised pursuant to the provisions of this title, and all school moneys by law appropriated to or provided for, or received from any source for said city, shall be paid to the treasurer appointed by the board of education, who, together with the sureties upon his official bond, shall be accountable therefor.

§ 184. All moneys raised by virtue of this title, or received from any other source, for the use of the public schools in said district, shall be deposited with the said treasurer for safe-keeping thereof, to the credit of the board of education, until drawn as hereinafter provided.

§ 185. The treasurer of the board of education shall, at the proper time in each year, draw upon the county treasurer, or other proper officer, for all moneys appropriated to said district from the common school, literature or other funds of this state; and he is hereby authorized to receive the same for the said district as provided in the preceding section.

§ 186. The said treasurer shall pay out the moneys received by him by virtue of this act only upon drafts drawn by the president and countersigned by the secretary of the board of education, which drafts shall not be drawn except in pursuance of a resolution or resolutions of said board, and shall be payable to the person or persons entitled to receive the money thereon. The treasurer, when required to do so by the board of education, shall

make to it a written statement of the moneys received and disbursed by him on its account, together with the amount in his hands at the time of such statement. At the end of his official term he shall settle with the said board of education, and pay to his successor in office, to the credit of the said board, all moneys remaining in his hands subject to its order.

§ 187. The board of education may cause a suit or suits to be prosecuted in its corporate name, upon the official bond of the city chamberlain or treasurer of the board, for any default, delinquency or official misconduct in relation to the collection, safe-keeping and payment of any money in this title mentioned.

§ 188. The said board of education shall have the power and it shall be its duty:

1. To organize, establish and maintain such and so many schools in said school district, including the common schools and high school now existing therein, as it shall deem requisite and expedient, and to alter and discontinue the same.

2. To purchase and hire schoolhouses and rooms, lots or sites for schoolhouses, and to fence and improve them.

3. Upon the lots and sites owned by said board of education, to build, enlarge, alter, improve and repair schoolhouses, outhouses and appurtenances, as it may deem advisable.

4. To purchase, exchange, improve and repair school apparatus, books for pupils (save as hereinbefore provided), furniture and appendages, and to provide fuel for the schools, pay the necessary insurance on buildings and school property and to defray contingent expenses of the school library.

5. To have the custody and safe-keeping of the schoolhouses and all school property belonging to said district, and to see that the ordinances of the board in relation thereto be observed.

6. To contract with, examine, license and employ all teachers in said schools, and at its pleasure remove them.

7. To pay the wages of such teachers out of the money appropriated and provided by law, or by this act, for the support of common schools in said district.

8. To defray the necessary contingent expenses of the board, including the annual salary of its officers.

9. To have in all respects the superintendence, supervision and management of the schools of said district, and, from time to time, to adopt, alter, modify and repeal, as it may deem expedient, rules and regulations for their organization, government and in-

struction, and for the reception of the pupils and their transfer from one class to another, or from one school to another, and generally for their good order, prosperity and utility.

10. To sell any of the schoolhouses, lots or sites, or any of the school property now or hereafter belonging to the district, when authorized to do so by a majority vote at any regular or special election of the voters of the district, upon such terms as the board shall deem most advantageous; and the proceeds of all sales shall be paid to the treasurer and shall be by said board of education expended in the purchase, repairs or improvements of schoolhouses, sites or appurtenances, furniture or apparatus.

§ 189. Whenever in the opinion of the board of education it shall become advisable to erect any school building, the estimated cost of which shall exceed ten thousand dollars, it shall cause an estimate of the cost of such building to be made, and shall cause the question of raising the amount required by tax to be submitted to the decision of the voters of the school district, in such manner as it deems best calculated to procure a fair expression from said voters. In case the tax shall be voted, the same may be raised by installments, the amount of which, and the times of payment, shall be left optional with the board of education.

§ 190. The academy or high school, connected with the school system contemplated by this act, shall be recognized as one of the academies of this state, subject to the visitation of the regents, and shall be entitled to participate in the distribution of the income of the literature fund and other funds in the same manner and upon the same conditions as the other academies of the state; and the regents of the university of the state of New York shall pay annually to the board of education of Ithaca the distributive share of the said funds to which the said academy or high school shall be entitled.

§ 191. Said board of education shall make reports annually to the state commissioner of education and at such other times as he may request.

§ 192. The state commissioner of education shall apportion state school moneys to the city of Ithaca in the same manner as to the other cities of this state. The treasurer of Tompkins county shall, upon the draft of the treasurer of the board of education, pay annually to him the sum thus certified as due the said school district.

§ 193. The schools organized under this act shall be free to all pupils between the ages of five and twenty-one years who are actual residents of said school district. The board of education shall decide all questions of residence arising under this section. The said board may allow the children of nonresidents to attend the schools of said district, and shall prescribe the rates of tuition of such nonresidents, payable always in advance.

§ 194. The said board of education shall be the trustees of the school district library of said district, and all the provisions of law which are now in force or hereafter may be passed, relative to school district libraries, shall apply to said board of education in the same manner as if it were trustees of a school district. It shall be vested with the same discretion as to the disposition of moneys, appropriated by the laws of this state for the purchase of libraries, which is herein conferred on the inhabitants of school districts, and it shall have the power to purchase, exchange, repair or dispose of any books or other property of said library, or cause it to be done, and apply the proceeds to the purchase of other books or apparatus; also, to provide suitable rooms and furniture for said library, and further it may appropriate for the benefit of said library, out of the moneys annually raised in said district by the school tax, an amount not exceeding two hundred and fifty dollars in addition to the library money received from the state.

§ 195. The title of the schoolhouse, sites, furniture, books and all other school property now belonging to the school district of the city of Ithaca, or to the board of education of the city of Ithaca, is hereby vested in the board of education of the city of Ithaca; and the same while used or appropriated for school purposes shall not be levied on or sold by virtue of any warrant or execution or other process, nor be subject to taxation for any purpose whatever; and the said board of education of the city of Ithaca, in its corporate capacity, shall be competent to take, hold and dispose of any real or personal estate, transferred to it by grant, gift, bequest or devise, for the use of the common schools or academy of said school district, whether the same be transferred in terms to said board of education by its proper style, or by any other designation, or by any person or persons, or corporation, for the use of said schools or academy.

§ 196. It shall be the duty of the board of education between the first and fifteenth days of October of each year, to prepare

and publish in one or more of the newspapers printed in the city of Ithaca, a true and correct statement of the receipts and disbursements under the provisions of this act, for the preceding year ending August thirty-first, in which account shall be stated under appropriate heads:

1. The money raised by the board of education and received by the treasurer for its use.

2. The school moneys received by its treasurer from the county treasurer.

3. All other moneys received by its said treasurer subject to the order of the board of education, specifying the sources from which they shall have been derived.

4. The manner in which such sums of money shall have been expended, specifying the amount under each head of expenditures, and the person or persons to whom the money has been paid except such lists of persons as have already been published.

5. Such other information as said board shall deem proper in regard to the condition of the schools under its care.

§ 197. It shall be the duty of the clerk of the city immediately after the election or appointment of any person to any office mentioned in this title, personally or in writing to notify him of his election or appointment, and any person who, without sufficient cause, shall refuse to serve therein shall forfeit the sum of ten dollars; and every person so elected or appointed, and not having refused to accept, who shall neglect to discharge the duties of said office shall forfeit the sum of twenty dollars to said board of education. It shall be the duty of said board of education forthwith to prosecute for all forfeitures and penalties under this title when voluntary payment is refused; and to apply all money when received to the purpose of education in said district. All officers mentioned in this title shall be deemed public officers within the intent and meaning of the public officers law and the penal code, and as such liable to the penalties therein prescribed, in addition to the penalty in this section before provided.

§ 198. The board of education may, when it shall deem it advisable, appoint a superintendent of schools for the said school district, who may ex officio be secretary of said board. He shall be under the direction of the board of education, and it shall prescribe his general duties. In addition to such other duties as may be devolved upon him by the board in the visitation and superintendence of the schools he shall examine the qualification

of teachers, and grant certificates in such manner and form as may be prescribed by the state commissioner of education, which shall not be in force longer than a year, and which may at any time be revoked by the board of education. He shall be paid a salary out of the general fund, to be fixed by the board of education, and may be removed from office by the vote of a majority of all the members of the board.

§ 199. All former or existing acts, or parts of acts, conflicting or inconsistent with the provisions of this title, are hereby repealed, so far as they affect this title, but nothing in this title shall be so construed as to limit, restrain or annul the powers of the superintendent of public instruction. In all matters of dispute which shall be referred to him by appeal, and which shall arise under and by virtue of this title, or under and by virtue of any other act which is now, or shall hereafter be applicable to the schools, school officers or school property of or in said district, his decision or orders shall be final and binding.

TITLE IX.

SINKING FUND COMMISSIONERS.

Section 200. Appointment; terms.
201. Oaths; bond.
202. Powers and duties as to sinking fund and investment thereof.
203. City chamberlain to pay them moneys for sinking fund.
204. To serve without pay.
205. Reports.

§ 200. Within one month after the passage of this act the mayor shall nominate and appoint, subject to confirmation by the common council, three sinking fund commissioners; one for a term to end with December thirty-first, nineteen hundred and nine, one for a term to end with December thirty-first, nineteen hundred and ten, and the other for a term to end with December thirty-first, nineteen hundred and eleven. In January, nineteen hundred and ten, and annually thereafter one sinking fund commissioner shall be appointed in the manner above provided for the term of three years to commence on the first day of January. A vacancy arising other than by expiration of term

shall be filled, in the same manner, for the unexpired term. Every incumbent shall, however, continue in office until his successor shall qualify.

§ 201. Each sinking fund commissioner before entering upon the performance of the duties of his office shall take and file with the city clerk the usual constitutional oath and shall execute and file with the city clerk a bond, with a surety company as surety, to be approved by the common council and in a penalty fixed by it, conditioned for the honest and faithful performance of the duties of his office and the payment and accounting for all moneys and securities which may come into his hands. The premium cost of any such bond shall be paid by the city. The powers and duties of said sinking fund commissioners shall commence as soon as they are appointed and qualify.

§ 202. Said sinking fund commissioners shall take possession of and receive all moneys and securities now constituting a sinking fund on account of any bonds or indebtedness of the city, and shall receive and invest all moneys hereafter raised by the city for a sinking fund as required by any title of this act or any law of the state, and shall invest the same and keep them invested in the bonds of the city or other safe interest-bearing bonds until such time or times as said fund and interest accumulation, or some part thereof, may be used in payment and cancellation of bonds of the city. The provisions contained in title seven of this act as to certain bonds and sinking fund therefor are hereby referred to as applicable, so far as may be, to the sinking fund commissioners.

§ 203. The city chamberlain shall pay to said sinking fund commissioners any and all moneys which he may collect and receive for the purposes of a sinking fund, by virtue of any city tax levy, as determined by the common council.

§ 204. The sinking fund commissioners shall serve without compensation or salary.

§ 205. They shall annually, and at such other times as in this act provided or the mayor or common council may require, make a report of their proceedings and investments, showing the state and amount of any sinking fund under their management and control.

§ 206. This title shall take effect immediately.

TITLE XI.*

MISCELLANEOUS.

Section 207. Vacancy; absence or disability of mayor; acting mayor.
208. Vacancies in other elective offices; how filled.
209. Vacancies in appointive offices; how filled.
210. Bonds of appointive officers.
211. Eligibility to elective offices.
212. Delivery of papers to successors.
213. Competency as jurors and otherwise.
214. Double costs to defendants in certain cases.
215. Razing of buildings at fires.
216. Ordinances continued in force.
217. Purchases without authority prohibited.
218. Resolution must specify amount to be expended.
219. Audit of accounts; compensation of officers.
220. Accounts to be verified.
221. Claims for damages; notice required; notice of intention before bringing action; limitations.
222. Disorderly persons.
223. Actions for penalties and forfeitures; procedure; witnesses; who may authorize action.
224. Execution in such cases.
225. Evidence of ordinances, et cetera.
226. Evidence of charter.
227. Notice, how served.
228. Notice, proof of service.
229. Service of process on a corporation; jurisdiction.
230. City a town as to jury lists.
231. Appointive officers; removal.
232. Official papers; publication therein.
233. Term, powers and duties of justices of the peace to end with December thirty-first, nineteen hundred and eight.
234. Terms, powers and duties of certain other appointive commissioners to end with December thirty-first, nineteen hundred and eight.
235. Terms, powers and duties of certain other appointive officers to end with December thirty-first, nineteen hundred and eight.

* So in original.

Section 236. Definition of words.
237. Construction.
238. Effect of repeal.
239. Acts repealed.
240. Exceptions as to board of education.
241. When to take effect.

§ 207. In case the mayor shall be unable to perform the duties of his office in consequence of sickness or absence from the city, or if there shall be a vacancy in the office, at the first meeting in each year the common council shall appoint by ballot one of its members to preside at its meetings, and the presiding officer thus chosen shall be vested with all the powers, and perform all the duties of the mayor of the city, until the mayor shall resume the duties of his office, or the vacancy shall be filled for the unexpired term by election according to law. The officer so appointed shall be styled "acting mayor," and shall sign all necessary papers with his name, adding thereto the words "acting mayor."

§ 208. If a vacancy shall happen in any elective office other than mayor, the common council, or in case of a vacancy in office of a commissioner of education, the board of education, shall fill the same by appointment until the commencement of the political year next succeeding the first annual election at which such vacancy can be filled; and at such election some qualified person shall be elected to such office for the residue of the term thereof, according to the provisions of this act.

§ 209. The term of all officers appointed by the mayor not otherwise provided for by this act or by the general statutes, shall end with the term of the mayor appointing them. If a vacancy shall happen in any appointive office provided or authorized by this act, it shall be filled by appointment for the unexpired term by the same officer, body or board and in the same manner as an appointment for a full term.

§ 210. The common council and each board possessing appointing power may require any of its appointees to any office or duty to give a bond, with one or more sureties, for the faithful performance of his duties and accounting for and paying over moneys coming into his hands, in a penalty to be fixed by the appointing body; and such bond to be approved by said body.

§ 211. No person shall be eligible to any elective office provided by this act unless he shall own property liable for city taxation.

§ 212. If any person, having been an officer in said city, shall not, within ten days after notification and request, deliver to his successor in office all the property, papers and effects of every description in his possession or under his control, belonging to said city or pertaining to his office, he shall forfeit and pay for the use of the city one hundred dollars, besides all damages caused by his neglect or refusal to deliver.

§ 213. No person shall be incompetent to act as judge, justice, witness or juror in any action or proceeding in which the city of Ithaca is interested, by reason of his being an inhabitant or freeholder or taxpayer in said city.

§ 214. Every person now or hereafter elected or appointed under this act to any office, who shall be sued for any act done or omitted to be done under such election or appointment, and any person who shall be sued for any act or thing done by the command of any officer, shall, if any final judgment be rendered thereon, whereby any such defendant shall be entitled to costs, recover increased costs, as provided by section thirty-two hundred and fifty-eight of the code of civil procedure.

§ 215. The mayor or acting mayor shall have power to cause buildings to be pulled down, blown up or removed for the purpose of arresting the progress of fires, and for the extinguishment of the same. In case a building shall be pulled down, blown up or removed under such authority for the purposes aforesaid, and said building shall be insured, the owner thereof shall be entitled to recover from the said city, damages to the same extent that he would have been entitled to recover against the insurers, in case such building had been destroyed by fire.

§ 216. All ordinances, rules and regulations and by-laws heretofore passed by the common council of said city, or by any board thereof, and not inconsistent with this act or with law, shall continue in full force and effect until amended or repealed.

§ 217. No officer of the city, or any other person, shall have power to make any purchase, or contract any debts on the part of the city unless duly and fully authorized so to do; and no account, claim or demand shall be audited, allowed or paid unless the same was duly authorized.

§ 218. All resolutions adopted by the common council or any board of the city, authorizing the expenditure of money, shall ap-

propriate specifically the amount to be expended, and no extra or additional compensation shall be allowed or paid on any contract, or to any officer, person or persons, for any services, or work done or materials furnished to the city.

§ 219. The common council shall, in such manner and form as it may deem proper, audit all accounts and claims against the city, except as herein otherwise provided; and shall determine and prescribe the compensation, if any, to be paid to any officer elected or appointed under this act, not otherwise herein provided.

§ 220. The common council of said city shall not be required to audit any account or claim unless made out in items, and accompanied with an affidavit attached thereto, that the items thereof are correct, that the services and disbursements charged therein have been, in fact, made and rendered and that no part thereof has been paid or satisfied.

§ 221. All claims against the city for damages or injuries to person or property, invasions of personal or property rights of every name and nature whatsoever, whether casual or continuing, continuing and continuous trespass, continuing and continuous invasion of property, continuing and continuous invasions of property rights, and all other claims for damages or injuries to persons or property, arising at law or in equity, and enforceable or sought to be enforced at law or in equity, alleged to have been caused or sustained in whole or in part by or because of any misfeasance, nonfeasance, negligence, omission of duty, wrongful act, fault or neglect on the part of the city or any of its agents, officers, or employees, must be presented to the common council in writing, within thirty days after such damages or injuries to persons or property were sustained. Such writing must state the time when, the place where and the circumstances under which the damages or injuries were sustained and the particular cause thereof; it must also state so far as it is then practicable, the nature and extent of the damages or injuries; it must also state the place of residence of the claimant by street and number, and if there be no street or number, it must contain such statement as will disclose the place of residence; and all such claims must be verified by the oath of the claimants; and if it is intended to commence an action on such claim, notice of such intention, containing the amount demanded and the time and place of the damages or injuries, must also be served on the city clerk within six months after such damages or injuries were sus-

tained. No action may be maintained for damages or injuries to persons or property caused or sustained as aforesaid unless the claim therefor is presented to the common council within thirty days and notice of intention is served upon the city clerk within six months, and the action is commenced within one year, after such damages or injuries were sustained, but no such action may be brought until three months have elapsed after the presentation of the claim to the common council. The city of Ithaca shall not be liable for the damage or injury sustained by any person in consequence of any street, highway, bridge, culvert, sidewalk or crosswalk in said city, being out of repair, unsafe, dangerous or obstructed by snow, ice, or otherwise or in any way or manner, unless written notice of the defective, unsafe, dangerous or obstructed condition of said street, highway, bridge, culvert, sidewalk or crosswalk shall have been given to the board of public works of said city, or at the office of the board of public works of said city to the person having charge thereof, at least twenty-four hours previous to said damage or injury. This section applies to claims of infants and all other persons. The place of trial of all actions or proceedings against the city or any of its boards or officers, shall be in the county of Tompkins unless changed by order of the court.

§ 222. In addition to persons declared disorderly persons by any general statute of the state, all persons who shall be intoxicated in any street, park, alley or other public place in said city, and all persons who shall, by noisy, tumultuous or riotous conduct, disturb the people; and all persons who shall have incited or induced dogs to fight, or be engaged in inciting or causing them to fight in any street or public place in the city; and all persons who shall fight on any street or public place in the city, and all persons who shall by blowing horns, hallooing or otherwise making loud noises tending to disturb the quiet of the people without just cause; and all persons who shall willfully and maliciously break or injure any awning or awning post, or any public lamp or lamppost, or shall willfully and for purposes of disturbance or mischief give or create any false alarm of fire, or remove from or pile up before any door boxes, casks, or other things for the purpose of annoyance or mischief; and all persons who shall willfully throw ink or other liquid, or any missile or thing, upon or against or into any building in the city with intent to injure the same or to annoy any owner thereof; and

all persons who shall willfully and maliciously injure or deface any fence, trees, shrubbery or ornamental thing in the city, are hereby declared to be disorderly persons, and may be proceeded against according to the provisions of this act.

§ 223. All actions brought to recover any penalty or forfeiture incurred under this act, or the ordinances, by-laws, or public regulations made in pursuance of it, shall be brought in the name of the city of Ithaca, unless otherwise herein provided, and in any such action it shall be lawful to declare, generally, orally, or in writing, for such penalty or forfeiture, referring only to the section of this act, or the section of the ordinances, by-laws or public regulations passed in pursuance of such act, under which the penalty or penalties, or forfeiture, is or are claimed, and the defendant may deny, generally, in like manner, and either party may give in evidence, under such general declaration or denial, any special matter that may legally be the subject of such claim for penalty or penalties or that may legally be the subject of the defense under such general denial of the defendant. When such action shall be commenced, if it shall be made to appear by the oath or affidavit of any person that any ordinance, by-law or regulation has been violated by the person against whom process is applied for, a civil warrant may issue at the commencement of such action directed to any constable, police constable, policeman or chief of police of said city, commanding him to take the body of such person and bring him before the court to answer the complaint of said city in a civil action for the violation of such ordinance, by-law, or regulation. No affidavit or bond shall be required to authorize the issuing of any order of arrest in behalf of said city, except that in actions for violations of ordinances, regulations or by-laws the affidavit or oath above provided for shall be required before issuing a warrant. And any person may be summoned to appear forthwith, or at a designated time, before the court to make an affidavit or be sworn and examined on such application for a warrant in relation to his knowledge of the violation of such ordinance, regulation or by-law. Such examination shall be reduced to writing and filed with the process and proceedings in the case; and all the affidavits made in such case shall be so filed and kept with the process and proceedings in the case. No witness so summoned to appear shall be entitled to any fee or compensation for such attendance or examination; and for failure to so attend or be sworn or examined, such witness

shall be liable to the same penalty and may be punished in the same manner as witnesses who refuse to appear when duly subpœnaed, or to be sworn or testify on trials in actions in the supreme court. On return of such warrant in the city court the parties and court shall proceed in the same manner, and the same proceedings shall be had and adjournments may be granted in the same manner, for the same time and on the same terms as provided by statute on the return of a civil warrant in other actions before justices of the peace. Any action for the violation of any of the ordinances, by-laws, resolutions, rules and regulations adopted or passed by the common council or by the board of the city may be brought on the direction or authority of the mayor or of the board concerned or affected by such violation.

§ 224. Every execution on a judgment in an action for any penalty, penalties or forfeitures, recovered for the violation of any ordinance, by-law or public regulation enacted in pursuance of this act, or for a violation of any of the provisions of this act, when the defendant against whom judgment was recovered upon which such execution is issued, shall decline or fail to pay the amount of such judgment and costs, shall command the officers to whom it is directed to take the body of said defendant and commit him or her to the county jail of the county of Tompkins, there to remain until discharged by due course of law. And the person or persons against whom such judgment is recovered shall not be entitled, under any execution on such judgment, to the liberties of the jail.

§ 225. Every act, ordinance, by-law, public regulation, resolution or proceeding of the common council or any of the boards of the city of Ithaca may be read in evidence in all courts and places in this state, either: (1) From a copy of such act, ordinance, by-law, public regulation, resolution or proceeding certified by the city clerk, with the seal of the corporation affixed; or (2) from the printed volume of ordinances, by-laws and public regulations printed by authority of the common council.

§ 226. The charter of the city of Ithaca may be read in evidence from the volume containing such charter, printed by authority of the common council, or from a copy certified by the city clerk, or from the session laws of the state of New York containing the same.

§ 227. When corporations, associations, copartners, joint tenants or tenants in common are to be served with a notice under

any provisions of this act, or under the direction of the common council, it shall be deemed a sufficient, valid and legal service of such notice to serve a copy thereof upon the president, cashier, treasurer, one of the directors, or the local agent of such corporation or association, or upon any one of such copartners, joint tenants or tenants in common.

§ 228. The affidavit of the service of any notice under the provisions of this act, or under the direction of the common council, made by the person serving the same, or where the service is by publication, the affidavit of the publisher of the paper, the clerk, editor or foreman in his office, stating that such notice has been published the time required by law, and filed with the city clerk, shall be presumptive evidence of such service in all courts and places, as shall be also certified copies of the same.

§ 229. The city court shall have and acquire jurisdiction over any corporation for all purposes by service within the city of its process or mandate upon the president, cashier, treasurer, one of the directors, or the local agent of such corporation.

§ 230. The said city of Ithaca shall be regarded as a town of Tompkins county for the purposes specified in title three, chapter ten, article two of the code of civil procedure respecting the selecting, drawing and procuring the attendance of trial jurors. The supervisors and city clerk of said city shall perform the duties of the supervisor, town clerk and assessors of towns, as prescribed by said article, and a duplicate of the list of jurors selected by them shall be filed in the office of the clerk of said city.

§ 231. All officers appointed pursuant to the provisions of this act shall, upon the expiration of their respective terms, continue to hold the respective offices until a successor thereto is appointed and has qualified. Any appointed officer may be removed by the common council or board appointing him except as otherwise herein provided, upon specific charges in writing preferred against such officer, and filed with the city clerk, and a reasonable notice to such officer that such charges have been made, and of the time and place of a hearing thereon, upon a hearing thereon if requested by such officer, by the votes of a majority of all the members of the common council or board.

§ 232. The common council shall by resolution designate as official papers one or two newspapers published in the city, and every notice, statement, ordinance, resolution, rule and regula-

tion required or authorized to be published by this act or by any of the boards of the city shall be published in one or both of said papers as may be required or directed.

§ 233. The terms of office, powers and duties of the present justices of the peace in the city of Ithaca shall end with the thirty-first day of December, nineteen hundred and eight, except as provided in section two hundred and thirty-eight hereof, and as to actions and proceedings then pending.

§ 234. The terms of office, powers and duties of the present members of the Ithaca water board, of the board of creeks, drainage and park commissioners, and of the board of sewer commissioners of the city of Ithaca shall end with the thirty-first day of December, nineteen hundred and eight, or as soon thereafter as the commissioners of public works herein provided shall qualify.

§ 235. The terms of office, powers and duties of the present treasurer, collector, city superintendent, city clerk, city attorney and overseer of the poor shall end with the thirty-first day of December, nineteen hundred and eight, or as soon thereafter as the successors to their respective powers and duties as provided in this act shall qualify.

§ 236. The word "his" as used in this act shall, in all proper cases, be held to include and be coextensive with the words "her," "it" and "their;" the word "person" shall be held to include and be coextensive with the words "persons," "company," "joint stock association" and "corporation;" the word "street" shall be held to include and be coextensive with "roads," "avenues," "highways" and "alleys;" the word "work" shall be held to include and be coextensive with "improvements" and "repairs;" the word "materials" shall be held to include and be coextensive with "supplies," "stationery," "books," "furniture" and "repairs to furniture;" the word "tax" shall in all proper cases be held to include and be coextensive with "water rents or rates," "assessments or reassessments for local improvements;" the word "board" shall be held to include and be coextensive with "commission," and the singular noun shall be held to include and be coextensive with the plural. A reference to the code of civil procedure, to the code of criminal procedure, to any statute, to the rules of practice, or any sections or parts thereof, shall be held to refer to such code of civil procedure, code of criminal procedure, statutes and rules of practice as the same now exists or as they may from time to time

hereafter be amended. The expressions "according to law," "pursuant to law," and "by law," and any reference to law shall be held to refer to the law as now existing or as hereafter from time to time amended or changed.

§ 237. The provisions of this act, so far as they are substantially the same, or cover the same subject matter as those of any law repealed hereby, shall be construed as a continuance of such repealed law, modified or amended, according to the language employed herein and not as new enactments. References in a law not repealed to the provisions of any law incorporated into this act shall be construed as applying to the provisions so incorporated. The meaning and effect of the terms and language used herein shall be construed in accordance with the provisions of the statutory construction law. This act is intended to be and shall be deemed and held in all courts to be a public act of which the court shall take judicial notice, and shall be liberally construed so as to carry into effect the objects and purposes thereof.

§ 238. The repeal of a law, or any part of it, by the provisions of this act, shall not affect or impair any act done or right accruing, accrued or acquired, or penalty, forfeiture or punishment, or any bar, limitation or defense incurred prior to the time when this act takes effect, under or by virtue of the law so repealed, but the same may be asserted, enforced, prosecuted or inflicted as fully and to the same extent as if such law had not been repealed, except as bars, limitations and defenses which it is specifically provided herein may not be asserted or enforced against the city, its boards or officers; and all actions or proceedings, civil or criminal, commenced under or by virtue of any law so repealed and pending when this act takes effect, may be prosecuted and defended to final effect in the same manner as they might under any such law so repealed, unless it be otherwise specifically provided herein. Any limitation or bar imposed by any act repealed hereby shall be computed from the time the same began to run, and if the whole time thereof has been completed when this act takes effect, such bar or limitation shall become absolute, except as to bars, limitations and defenses which it is specifically provided herein may not be asserted or enforced against the city, its boards or officers; but if the whole time thereof has not been completed, the time thereof which has run before the taking effect of this act shall be computed as a part

of the time provided by this act as such limitation or bar. The repeal hereby of a law or part thereof does not revive a law repealed by the law or part thereof hereby repealed, and includes all laws amendatory of the laws hereby repealed.

§ 239. All acts and parts of acts inconsistent with and repugnant to the provisions of this act, so far as they affect the city of Ithaca, are hereby repealed; and chapter two hundred and forty-four of the laws of eighteen hundred and seventy-one, chapter two hundred and twelve of the laws of eighteen hundred and eighty-eight, chapter two hundred and ninety-five of the laws of eighteen hundred and eighty-eight, chapter three hundred and fifty-eight of the laws of eighteen hundred and ninety-three, chapter one hundred and sixty-two of the laws of eighteen hundred and ninety-five, chapter one hundred and eighty-one of the laws of nineteen hundred and three, and chapter three hundred and forty-five of the laws of nineteen hundred and six, and all acts amendatory of any of them, are hereby repealed.

§ 240. Unless expressly so stated no title or provision of this act other than title nine hereof applies in any respect to the department or board of education.

§ 241. Except as herein otherwise provided this act shall take effect on the first day of January, nineteen hundred and nine.

Chap. 504.

AN ACT to enable the town of Pelham to establish and maintain a sewer system and disposal works in the unincorporated portion of said town and in the incorporated villages of North Pelham, Pelham and Pelham Manor.

Became a law, May 23, 1908, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The town board of the town of Pelham on the petition of a majority of the owners of real property in the proposed district, representing a majority of the taxable property therein, as appears by the last preceding completed assessment roll, may establish a sewer system throughout each and every portion of said town of Pelham, including that portion of the

town within the village limits of the villages of North Pelham, Pelham and Pelham Manor in such town. The petition must describe the proposed district and state the maximum amount proposed to be expended in the construction of such sewer system or disposal works, or both. Each petitioner shall state opposite his name the assessment valuation of the real property owned by him in such district according to the last preceding assessment roll. The petition must be signed by the petitioners and acknowledged in the same manner as a deed to be recorded. There shall be annexed to and presented with such petition a map and plan of the proposed sewer system with specifications of dimensions and connections, and outlet or sewage disposal works prepared by a competent engineer at the expense of the petitioners.

§ 2. If the town board is satisfied that the petitioners are a majority of the owners of real property in the proposed district, and own a majority in value of the taxable property therein, they shall make an order establishing such district and appointing three taxpayers therein as sewer commissioners, who shall hold their offices at the pleasure of the town board.

§ 3. Each commissioner before entering on the duties of his office shall take the constitutional oath of office and execute to the town and file with the town clerk an official undertaking in such sum and with such sureties as the town board shall direct. The town board may at any time require any such commissioner to file a new official undertaking for such sum and with such sureties as the board shall direct.

§ 4. The sewer commissioners shall cause a copy of the map and plan of the proposed sewer system to be submitted to the state board of health, and if approved, it shall be filed in its office. Such map and plan may be amended with the approval of the state board of health, and if amended, it shall be filed in the office of the state board of health and of the town clerk.

§ 5. The sewer commissioners of such district shall advertise for proposals for the construction of a sewer system according to such map and plan, either under an entire contract or in parts or sections as the board may determine. Such advertisement shall be published once in each of two successive weeks in each newspaper published in the town, and if no newspaper is published therein in two newspapers published in a city or village nearest to such town. The commissioners may require a bond or a deposit from each person submitting a proposal, the liability on such

bond to accrue, or such deposit to be forfeited to the town, in case such person shall refuse to enter into a contract in accordance with his proposal. The commissioners may accept or reject any or all proposals, and shall let the contract to the lowest bidder. No contract shall be made by which a greater amount shall be agreed to be paid than the maximum amount stated in the petition for the construction of such sewer, including the expense of superintendence and inspection as provided in section six hereof. Each contract shall be executed in duplicate, one of which shall be given to the contractor and the other shall be filed in the office of the town clerk.

§ 6. The sewer commissioners may employ a supervising engineer to superintend and inspect the construction of any sewer or works connected therewith, and also such inspectors as may be necessary, and fix the compensation of such engineer and inspectors. Such compensation shall be treated as a part of the expense of construction.

§ 7. If sewer commissioners are unable to agree with the owners for the purchase of real property necessary for the construction of the sewer system, they may acquire the same by condemnation.

§ 8. The sewer commissioners shall prepare and file in the office of the town clerk a map and plan of such district, which shall show the highways and the several parcels of land therein. The expense of the construction of such sewer shall be apportioned by such commissioners on the lands within such district in proportion as nearly as may be to the benefit which each lot or parcel will derive therefrom. After making such apportionment the board shall serve on each landowner a notice of the completion thereof and of the filing of such map and plan, and that at a specified time and place a hearing will be had to consider and review the same. Such notice must be served at least six days before the hearing, personally, if such landowner can with reasonable diligence be found within the state, otherwise by mail addressed to the landowner's last known post-office address. The commissioners shall meet at the time and place specified to hear objections to such apportionment and may modify and correct the same. The sewer commissioners upon the completion of such apportionment shall file the same in the office of the town clerk. The apportionment shall be deemed final and conclusive unless an appeal is taken therefrom within fifteen days after the filing thereof.

§ 9. A person aggrieved by an apportionment may, within fifteen days after the filing thereof, appeal therefrom to the county court of the county in which such district is situated. Such appeal shall be taken by a notice stating the grounds thereof, served personally or by mail upon each of the sewer commissioners and filed with the town clerk.

§ 10. Either party may bring on the appeal on a notice of not less than ten nor more than twenty days. All appeals from the same apportionment must be consolidated and heard as one appeal. The county court may affirm or reverse the apportionment. If it be reversed on the ground that it is erroneous, unequal or inequitable, the court shall, by order of reversal, appoint three disinterested freeholders of the district as commissioners to make a new apportionment and no appeal shall be allowed from such order.

§ 11. A reapportionment shall be made in the following cases:

1. By the commissioners appointed by the county court where the original apportionment is reversed on the ground that it is erroneous, unequal or inequitable.

2. By the sewer commissioners of the district where the original apportionment is reversed on any other ground. A reapportionment under this subdivision shall be made in like manner as the original.

§ 12. The commissioners appointed by the county court shall give notice of the time and place at which they will meet to make such reapportionment, and shall serve notice thereof, either personally or by mail, at least ten days before such meeting upon each owner of land within such district as finally fixed by the board of sewer commissioners. They shall meet at the time and place specified and make such reapportionment in the manner herein prescribed for the sewer commissioners. They shall file such reapportionment in the office of the town clerk, and it shall be final and conclusive.

§ 13. Each commissioner appointed by the county court is entitled to five dollars for each day necessarily spent in making such reapportionment, besides his actual necessary expenses. Such fees and expenses are a charge against the town, and must be audited by the town board. The amount thereof shall be added to the portion of the expense of constructing such sewer or sewer system which is to be assessed against property in such sewer district.

§ 14. The sewer commissioner shall assess the expense of constructing such sewer system on the property benefited in accordance with the apportionment established under this act. Notice of such assessment shall be given to the owners, who may pay to the commissioners the amount assessed within thirty days after service of such notice. After the expiration of such thirty days the commissioners shall report to the town board the amounts assessed upon the several parcels of real property benefited and the assessments which have been paid. The town board shall direct the issue and sale of bonds for the aggregate amount of the assessments remaining unpaid. Such bonds shall be a town charge. After the sewer system is constructed it shall be maintained by the commissioners and the cost of such maintenance shall be a charge upon the sewer district.

§ 15. The town board shall annually apportion the amount to be raised for the payment of such bonds on the lots or parcels in default, so that the tax theron will be the same as if an equal portion of the original assessment were then to be paid. Interest on an unpaid assessment shall be added to such tax at the rate payable by the bond or certificate of indebtedness, which must be computed to the time when the principal or an installment will become due; or if no principal will become due during the ensuing year, then the interest accruing during that year upon the assessment or bonds must be levied on such lot or parcel. The town board shall present to the board of supervisors at its annual meeting a statement showing the amount due or to become due for principal and interest during the ensuing year on bonds issued under this act; the persons liable to pay the same and the amount chargeable to each. The board of supervisors shall levy such sums against the property liable and shall state the amount of the tax in a separate column in the annual tax roll under the name "sewer tax." Such tax when collected shall be paid to the supervisor and be by him applied in payment of the bonds.

§ 16. The amount apportioned by the sewer commissioners on any lot or parcel and any tax levied for collection thereof shall be a lien prior and superior to any other lien or claim except the lien of an existing tax or local assessment.

Chap. 505.

AN ACT to amend the tax law in relation to the cancellation of a personal tax where it is noncollectible for want of jurisdiction.

Became a law, May 23, 1908, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Chapter nine hundred and eight of the laws of eighteen hundred and ninety-six, entitled "An act in relation to taxation, constituting chapter twenty-four of the general laws," is hereby amended by adding a new section after section two hundred and fifty-nine-a, to be known as section two hundred and fifty-nine-b, and to read as follows:

§ 259-b. **Cancellation of personal tax where it is void for want of jurisdiction.**— If a personal tax, levied against a person or corporation, is void for want of jurisdiction of such person or corporation and has been returned by the proper collector uncollectible for want of personal property out of which to collect the same, the person or corporation against whom the said tax was levied may then apply to the supreme or county court in the county in which is located the tax district where said tax was levied, for an order cancelling the said tax, and upon notice to the president of the village, county treasurer, supervisor of the town or, in the case of a city, upon notice to its attorney or to the corporation counsel, and upon satisfactory proof by affidavit, the court shall make an order directing the cancellation of said tax from the assessment roll by the county treasurer, comptroller, or other officer in whose custody and control the said roll may be.

§ 2. This act shall take effect immediately.

Chap. 506.*

AN ACT to amend chapter five hundred and seventy of the laws of eighteen hundred and ninety-five, entitled "An act for the incorporation of associations for the improvement of the breed of horses and to regulate the same; and to establish a state racing commission," in relation to betting, wagering, pool-selling and book-making.

Became a law, June 11, 1908, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section sixteen of chapter five hundred and seventy of the laws of eighteen hundred and ninety-five, entitled "An act for the incorporation of associations for the improvement of the breed of horses and to regulate the same; and to establish a state racing commission," is hereby amended to read as follows:

§ 16. All racing or trials of speed between horses or other animals for any bet, stake or reward, except such as is allowed by this act, or by special laws, is a public nuisance; and every person acting or aiding therein, or making or being interested in such bet, stake or reward is guilty of a misdemeanor and upon conviction is punishable by imprisonment in the county jail or penitentiary for a period of not more than one year; and in addition to the penalty prescribed therefor he forfeits to the people of this state all title or interest in any animal used with his privity in such race or trial of speed, and in any sum of money or other property betted or staked upon the result thereof.

§ 2. Section seventeen of chapter five hundred and seventy of the laws of eighteen hundred and ninety-five is hereby repealed.

§ 3. Section eighteen of the above entitled act, as heretofore amended by section four of chapter three hundred and eighty of the laws of eighteen hundred and ninety-six and by section two of chapter four hundred and forty-six of the laws of eighteen hundred and ninety-seven, is hereby amended so as to read as follows:

§ 18. A corporation or association authorized by or entitled to the benefits of this act, conducting a running or trotting or steeple-chase meeting, shall have the right to charge increased or addi-

* Passed at extraordinary session.

tional entrance fees for admission to any special portion or portions of the grounds of such corporation or association, unless such pool-selling or book-making as is punishable by fine or imprisonment, or other acts so punishable, be thereon authorized or knowingly permitted.

§ 4. This act shall take effect immediately.

Chap. 507.*

AN ACT to amend section three hundred and fifty-one of the penal code, relating to pool-selling, book-making, bets and wagers.

Became a law, June 11, 1908, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section three hundred and fifty-one of the penal code is hereby amended so as to read as follows:

§ 351. Pool-selling, book-making, bets and wagers, et cetera.—Any person who engages in pool-selling, or book-making at any time or place; or any person who keeps or occupies any room, shed, tenement, tent, booth, or building, float or vessel, or any part thereof, or who occupies any place or stand of any kind, upon any public or private grounds within this state, with books, papers, apparatus or paraphernalia, for the purpose of recording or registering bets or wagers, or of selling pools, and any person who records or registers bets or wagers, or sells pools upon the result of any trial or contest of skill, speed or power of endurance, of man or beast, or upon the result of any political nomination, appointment or election; or upon the result of any lot, chance, casualty, unknown or contingent event whatsoever; or any person who receives, registers, records or forwards, or purports or pretends to receive, register, record or forward, in any manner whatsoever, any money, thing or consideration of value, bet or wagered, or offered for the purpose of being bet or wagered, by or for any other person, or sells pools, upon any such result; or any person who, being the owner, lessee, or occupant of any room, shed, tenement, tent, booth or building, float

* Passed at extraordinary session.

or vessel, or part thereof, or of any grounds within this state, knowingly permits the same to be used or occupied for any of these purposes, or therein keeps, exhibits or employs any device or apparatus for the purpose of recording or registering such bets or wagers, or the selling of such pools, or becomes the custodian or depositary for gain, hire or reward of any money, property or thing of value, staked, wagered or pledged, or to be wagered or pledged upon any such result; or any person who aids, assists or abets in any manner in any of the said acts, which are hereby forbidden, is guilty of a misdemeanor, and upon conviction is punishable by imprisonment in a penitentiary or county jail for a period of not more than one year.

§ 2. This act shall take effect immediately.

Chap. 508 *

AN ACT to amend chapter one hundred and forty-seven of the laws of nineteen hundred and three, entitled "An act making provision for issuing bonds to the amount of not to exceed one hundred and one million dollars for the improvement of the Erie canal, the Oswego canal and the Champlain canal, and providing for a submission of the same to the people to be voted upon at the general election to be held in the year nineteen hundred and three," relative to the harbor at Syracuse.

Became a law, June 11, 1908, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section three of chapter one hundred and forty-seven of the laws of nineteen hundred and three, entitled "An act making provision for issuing bonds to the amount of not to exceed one hundred and one million dollars for the improvement of the Erie canal, the Oswego canal and the Champlain canal, and providing for a submission of the same to the people to be voted upon at the general election to be held in the year nineteen hundred and three," as amended by chapter seven hundred and forty of the laws of nineteen hundred and five, and chapter seven hundred and

* Passed at extraordinary session.

ten of the laws of nineteen hundred and seven, is hereby further amended so as to read as follows:

§ 3. Within three months after issuing the said bonds or some part thereof the superintendent of public works and the state engineer are hereby directed to proceed to improve the Erie canal, the Oswego canal and the Champlain canal in the manner hereinbelow provided. The route of the Erie canal as improved shall be as follows: Beginning at Congress street, Troy, and passing up the Hudson river to Waterford; thence to the westward through the branch north of Peoble's island and by a new canal and locks reach the Mohawk river above Cohoes falls; thence in the Mohawk river canalized to Little Falls; thence generally by the existing line of the Erie canal and feeder around through Little Falls to the Mohawk river above the upper dam; thence in the Mohawk river canalized with the necessary cutting through bends to a point just east of Jacksonburg; thence generally by the existing line of the Erie canal to Herkimer; thence in the valley of the Mohawk river following the thread of the stream as much as practicable to a point about six miles east of Rome; thence over to and down the valley of Wood creek to Oneida lake; thence through Oneida lake to the Oneida river; thence down the Oneida river cutting out the bends thereof where desirable, to Three River point; thence up the Seneca river to the outlet of Onondaga lake; thence still up the Seneca river to and through the state ditch at Jack's reefs; thence westerly generally following said river to near the mouth of the Clyde river; thence up the Clyde river, or any tributary thereof and their valleys, or portions of the present canal, on lines selected by the state engineer to Fairport; thence substantially following the old canal to a point about one and one-fourth miles west of Pittsford; thence running across the country south of Rochester to the Genesee river near South park; here crossing the river in a pool formed by a dam situated at or near the Johnson and Seymour dam; thence running to the west of the outskirts of Rochester and joining the present canal about one mile east of South Greece; thence following substantially the route of the present Erie canal with the necessary change in alignment near Medina to a junction with the Niagara river at Tonawanda, thence by the Niagara river and Black Rock harbor to Buffalo and Lake Erie. The existing Erie canal in Buffalo from the location of the present guard lock to and including Commercial

slip except such portion as may be required by the United States government for the improvement of Black Rock harbor, shall be retained for harbor and canal purposes. The canal from Lockport to the Niagara river shall have a depth of twelve feet at extreme low water during the season of navigation in the Niagara river and through the rock cut above Lockport it shall have a minimum width of ninety-four feet except for twelve hundred feet above the locks, where the width shall be one hundred and thirty feet. The route of the Oswego canal as improved shall be as follows: Beginning at the junction of the Oswego, Seneca and Oneida rivers, it shall run northward to a junction with Lake Ontario at Oswego, following the Oswego river canalized and present Oswego canal. The route of the Champlain canal as improved shall be as follows: Beginning in the Hudson river at Waterford; thence up the Hudson river canalized to near Fort Edward; thence via the present route of the Champlain canal to Lake Champlain near Whitehall. The routes as specified herein shall be accurately laid down upon the ground by the state engineer, who is hereby authorized and required to make such deviations therefrom as may be necessary or desirable for bettering the alignment, reducing curvature, better placing of structures and their approaches, securing better foundations, or generally for any purpose tending to improve the canal and render its navigation safer and easier. The Erie, Oswego and Champlain canals shall be improved so that the canal prism shall, in regular canal sections, have a minimum bottom width of seventy-five feet and a minimum depth of twelve feet and a minimum water cross section of eleven hundred and twenty-eight square feet, except at aqueducts and through cities and villages where these dimensions as to width may be reduced and cross section of water modified to such an extent as may be deemed necessary by the state engineer and approved by the canal board. In the rivers and lakes the canal may have a minimum bottom width of two hundred feet and shall have a minimum depth of twelve feet; the minimum cross section of water may be twenty-four hundred square feet. The locks for the passage of boats on the Erie, Oswego and Champlain canals shall be single locks, except at flights of locks which shall be double locks. The locks shall have the following governing dimensions: Minimum length between hollow quoins, three hundred and twenty-eight feet; minimum width twenty-eight feet, minimum depth in lock chamber and on mitre sills eleven feet, and with

such lifts as the state engineer may determine. The locks shall be provided with all necessary approach walls, by passes, gates and valves, with hydraulic or electrical power for the manipulation of gates and valves, for expediting the passage of boats through the locks, and for lighting the locks and approaches. All locks having over eight feet lift shall be fed through a culvert running parallel with the axis of the lock in each wall with the necessary feed and discharge pipes and controlling valves. All single locks shall be so located with reference to the axis of the canal, that a second lock can be conveniently added alongside the first should this hereafter be found necessary. The Erie, Oswego and Champlain canals shall be provided with all necessary spillways, culverts and arrangements for stream crossings; the bottom and sides shall be puddled wherever necessary; and the sides where necessary shall have vertical masonry walls, or slope wash walls; guard locks and stop gates shall be built where required, and in canal sections guard gates shall be built at distances apart not exceeding ten miles, all as may be determined by the state engineer. New bridges shall be built over the canals to take the place of existing bridges wherever required, or rendered necessary by the new location of the canals. All fixed bridges and lift bridges when raised shall give a clear passage way of not less than fifteen and one-half feet between the bridge and the water at its highest ordinary navigable stage. The dams required for the canalization of the river sections of the Erie, Oswego and Champlain canals shall be so located and shall be built of masonry or timber as the state engineer shall determine to be best. Wherever, in the canalized rivers or in Oneida or Cross lakes, it may be deemed by the state engineer necessary for the safety and convenience of navigation, spar, gas, can or lantern buoys, range lights or range targets shall be provided, placed and maintained. The eastern end of the existing Erie canal at its junction with the Hudson river shall be improved as follows: A lock shall be built in place of existing lock number one and the weigh lock near it at Albany with the following governing dimensions; length between hollow quoins one hundred and seventy-eight feet, clear width twenty-eight feet, minimum depth on mitre sills eleven feet, and the canal prism shall be improved as far as existing lock number two by giving it a depth of twelve feet and a minimum width of fifty-five feet. And at the point of divergence from the present Erie canal near Fort

Bull a lock may be constructed with the following governing dimensions: length between hollow quoins one hundred and seventy-eight feet, clear width twenty-eight feet, minimum depth on mitre sills eleven feet, and shall be so located and constructed that boats navigating the proposed improved canal will be able to lock into the present Erie canal at this point; and that portion of the present Erie canal lying between the point above described and the Orville or Butternut creek feeder shall be maintained as a navigable canal and feeder of its present size and depth. The outlet of Onondaga lake into the Seneca river shall be enlarged to the size prescribed for the prism of the Erie and Oswego canals, and the necessary improvements shall be made in Onondaga lake to permit canal boats to reach the head of the lake, and from the head of the lake southeastwardly into Syracuse within five hundred feet of Spencer street where there shall be constructed a harbor. The entrance channel thereto shall be of such dimensions as to permit the largest boats which may pass the locks to enter the harbor. The harbor shall be provided with a turning basin of sufficient dimensions to enable such boats to be turned around therein. The harbor shall also be provided with suitable dockage, of which there shall not be less than three thousand lineal feet parallel with the axis of the canal. A sufficient quantity of water shall be introduced at the head of the harbor to produce at all times a perceptible velocity, and at least once a year a cleansing velocity not to exceed three feet per second. From the pool in which the canal will cross the Genesee river south of Rochester the Genesee river shall be improved for harbor purposes to the dam forming the pool by deepening it to twelve feet wherever required. The additional water supply required for the improved Erie canal shall be provided by developing and utilizing existing sources, by constructing a storage reservoir on Limestone creek, improving the storage of Cazenovia lake, and building storage reservoirs on the upper Mohawk near Delta, and on West Canada creek near Hinckley, with all necessary feeders for connecting these and existing reservoirs with the improved canal. The supply of water for the Erie canal shall be sufficient for the uses of the canal with at least ten million tons of freight carried on it per year.

§ 2. This act shall take effect immediately.

Chap. 509.*

AN ACT to amend the village law, in relation to the general powers of the board of trustees, and the borrowing of money for certain purposes.

Became a law, June 11, 1908, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section one hundred and twenty-eight of chapter four hundred and fourteen of the laws of eighteen hundred and ninety-seven, entitled "An act in relation to villages, constituting chapter twenty-one of the general laws," as amended by chapter three hundred and seventy-three of the laws of nineteen hundred, chapter two hundred and eighty of the laws of nineteen hundred and two, chapter six hundred and seventeen of the laws of nineteen hundred and three, chapter one hundred and ninety-three of the laws of nineteen hundred and four, chapter fifty-nine of the laws of nineteen hundred and seven, and chapter one hundred and seventy-six of the laws of nineteen hundred and eight, is hereby amended to read as follows:

§ 128. **Borrowing money generally.**— If authorized by an election, money may be borrowed by a village upon its bonds or other obligations, payable in future fiscal years for the purpose of purchasing, constructing and maintaining the following village improvements:

1. A village or town hall.
2. Fire houses, fire engines, fire alarm system and all other apparatus for use in extinguishing fires.
3. Laying out, widening, altering, grading or paving streets, and for the purchase of a steam roller, stone crusher and engine, and other road making machinery.
4. Sidewalks.
5. Bridges.
6. Waterworks.
7. Lighting system.
8. Sewerage.

* Passed at extraordinary session.

9. Parks or a site for a free public library.
10. Cemeteries.
11. Drains and culverts, the regulation of water-courses, ponds and watering places, and the protection of the property within the village from floods, freshets and high water.
12. Public docks or bulkheads.

And also for the purpose of paying certificates of indebtedness lawfully issued by the trustees under the provisions of section one hundred and fifty-eight of this chapter. Money may be borrowed in anticipation of taxes for the current fiscal year, prior to the annual levy thereof, but not in excess of the amount previously estimated by the board of trustees, as necessary to be raised during said fiscal year, and it must be payable within such year. No contract shall be made involving an expenditure by the village, unless the money therefor is on hand, or a proposition has been adopted authorizing the board of trustees to raise such money. If a final judgment against a village exceeds one thousand dollars, money may be borrowed for the payment thereof on the adoption of a proposition therefor at a village election, and bonds or other obligations of the village may be issued for that purpose, payable in installments or otherwise as prescribed in section one hundred and twenty-nine of this chapter.

§ 2. This act shall take effect immediately.

Chap. 510.*

AN ACT to legalize the proceedings of the town board, and special town meeting and election, of the town of Whitestown, held at the town hall of the said town May fifth, nineteen hundred and eight, to take action and vote upon the proposition as to raising by taxation upon the taxable property of the said town a sum of money not to exceed seven thousand dollars, for the erection of a steel bridge over the Oriskany creek on the Utica and Rome turnpike road at Oriskany in the said town to take the place of the iron bridge washed away and destroyed by the ice jam and flood of February fifteenth, nineteen hundred and eight, and to provide for the issuing of certificates of indebtedness and the payment of same issued for the erection of the said bridge.

Became a law, June 11, 1908, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The action of the town board of the town of Whitestown, Oneida county, and the proceedings thereof, in calling the special town meeting, and election of the voters and taxpayers and citizens of the said town to take action and vote upon the proposition to appropriate a sum of money not to exceed seven thousand dollars for the erection and building of a steel bridge over the Oriskany creek on the Utica and Rome turnpike road at the village of Oriskany in said town to take the place of the iron bridge washed out and carried away by the flood and ice jam of February fifteenth, nineteen hundred and eight, and the action of the said special town meeting and the election in voting to raise the said sum not to exceed seven thousand dollars, for the erection of the said steel bridge, and all proceedings of the said meeting and of the said town board of the town of Whitestown, with reference to the said meeting and the raising of the said sum of money is hereby ratified, confirmed and legalized.

§ 2. The town board of the town of Whitestown is hereby authorized to erect the said bridge over the Oriskany creek, and to issue certificates of indebtedness therefor in a sum not to exceed seven thousand dollars, and to raise the said sum of money upon the taxable property of the said town to pay the said certificates and interest.

§ 3. This act shall take effect immediately.

* Passed at extraordinary session.

Chap. 511.*

AN ACT to legalize certain bonds of the village of Tannersville in the county of Greene.

Became a law, June 11, 1908, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The proceedings of the board of trustees of the village of Tannersville in the county of Greene at a special meeting thereof held at the village hall in said village on the sixth day of March, one thousand nine hundred and eight, and the proceedings of the board of trustees of said village of Tannersville at a regular meeting thereof held on the thirteenth day of April, one thousand nine hundred and eight relative to the issuance and sale of the bonds of said village in the sum of two thousand five hundred dollars to pay the expenses to be incurred by and on behalf of said village of Tannersville for work and labor to be performed and materials to be furnished in completing the construction of the village hall in said village, are hereby legalized, ratified, and confirmed in all respects, notwithstanding the failure of the said village through its board of trustees to publish the notice of the submission to the taxpayers, who were qualified electors of the said village, of the proposition proposing the borrowing of the said two thousand five hundred dollars and the issuance of the said bonds, in the "Tannersville Times," as required by a resolution of the board of trustees of said village adopted the sixth day of March, one thousand nine hundred and eight; or by section fifty-five of the village law, or any defect or irregularity in any of the proceedings aforesaid, or in the issuance and sale of said bonds; and the bonds of said village of Tannersville issued in pursuance of said proceedings amounting to the sum of two thousand five hundred dollars, being five in number for five hundred dollars each, dated May first, one thousand nine hundred and eight and payable at the Tanners National Bank of Catskill, New York, one on the first day of April, one thousand nine hundred and thirteen and one the first day of April in each of the four years next succeeding the first day of April, one thousand nine hundred and thirteen, with interest

* Passed at extraordinary session.

thereon from the date thereof at the rate of five per centum per annum, payable annually until said bonds are wholly paid, are hereby declared to be valid and subsisting obligations of said village of Tannersville.

§ 2. The board of trustees of said village of Tannersville, at its sessions hereafter held for the purpose of assessing and levying taxes, shall assess and levy upon the taxable property of said village a sufficient sum to pay the principal and interest of said bonds as the same shall respectively become due and the sum so assessed and levied shall be raised annually by tax at the time and in the manner other village taxes are assessed, levied, and collected in said village; and when so raised such sum shall be paid to the treasurer of said village who shall apply the same to the payment of the principal and interest of said bonds as the same shall respectively become due.

§ 3. Nothing in this act shall affect any action or proceeding now pending in any court.

§ 4. This act shall take effect immediately.

Chap. 512.*

AN ACT to legalize and validate the proposition submitted and adopted at a special village election, held in the village of Mount Kisco on the sixteenth day of November, nineteen hundred and seven, to authorize the construction of a sewerage system at the expense of the village at large, and the issuance and sale of the bonds of said village in the amount of fifty-nine thousand and eight hundred dollars to pay part of the cost of the same, and the acts and proceedings of the board of trustees, heretofore taken pursuant thereto, and to authorize the issuance and sale of said bonds.

Became a law, June 11, 1908, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The proposition submitted and adopted at a special village election held in the village of Mount Kisco, on the sixteenth day of November, nineteen hundred and seven, to authorize the construction of a sewerage system at the expense of the village at

* Passed at extraordinary session.

large, and the issuance and sale of the bonds of said village in the amount of fifty-nine thousand eight hundred dollars to pay part of the cost of the same, and the acts and proceedings of the board of trustees heretofore taken pursuant thereto, are hereby legalized and validated. The said board of trustees are hereby authorized to issue and sell for the purpose aforesaid the bonds of the village of Mount Kisco to an amount not exceeding fifty-nine thousand eight hundred dollars in the manner provided in section one hundred and twenty-nine of the village law; such bonds to bear such rate of interest, to be payable at such times and in such installments as the board of trustees may determine within the limitations provided in section one hundred and twenty-nine of the village law, and when so sold and issued, they shall be deemed to be the valid obligations of said village, notwithstanding any illegality, omission, defect or irregularity in said election, or the calling or holding thereof, or in said proposition.

§ 2. Nothing in this act contained shall be so construed as to affect any action or proceeding pending in any court when this act takes effect.

§ 3. This act shall take effect immediately.

Chap. 513.*

AN ACT making appropriation to the state commissioner of excise for the payment of refunds on surrender of liquor tax certificates.

Became a law, June 11, 1908, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The sum of one hundred thousand dollars, or so much thereof as may be necessary, is hereby appropriated for the state commissioner of excise to pay refunds on surrender of liquor tax certificates under the provisions of the liquor tax law, to be paid by the state treasurer from excise moneys in his hands, upon the warrant of the comptroller.

§ 2. This act shall take effect immediately.

* Passed at extraordinary session.

Chap. 514.*

AN ACT to validate and legalize the acts and proceedings of the qualified vôters of union free school district number six, of the towns of Rye and Harrison, Westchester county, New York, in voting a tax of sixty-five thousand dollars for the purpose of erecting a new school building or an addition to the present school building, as well as the acts and proceedings of the board of education of said district in calling said election and in issuing and selling the bonds of said district in the amount of sixty-five thousand dollars and to validate and legalize said tax and bonds, the sale thereof, and to provide for the issuance thereof and for the payment of the principal and interest thereon.

Became a law, June 11, 1908, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The acts and proceedings of the qualified voters of union free school district number six of the towns of Rye and Harrison, Westchester county, New York, at a special school meeting or election held in said district on the sixteenth day of July, nineteen hundred and seven, in voting a tax of sixty-five thousand dollars to be collected in instalments, for the purpose of defraying the expense of erecting a new school building or addition to the present building, upon the present school grounds, adjoining the present school building in the town of Harrison and for the purchase of apparatus, fixtures and furniture for said school building, as well as the acts and proceedings of the board of education in calling said special election and in selling the bonds of said district in the amount of sixty-five thousand dollars in denominations of five hundred dollars each, dated May first, one thousand nine hundred and eight, bearing interest at the rate of five per centum per annum, payable semi-annually, and maturing as follows: five of said bonds on the first day of May one thousand nine hundred and seventeen, five of said bonds on the first day of May in each and every year thereafter, until all become due, as well as the tax so voted, and the bonds so sold, are hereby legalized and validated. The said board of education is hereby authorized

* Passed at extraordinary session.

to deliver said bonds pursuant to said sale upon the payment of the purchase price therefor, or in the event of the failure of said purchaser to accept delivery thereof, and pay therefor, said board may readvertise them for sale and sell the same pursuant to the provisions of the consolidated school law.

§ 2. The board of education of said school district, in the manner provided by law, shall cause such sums to be raised annually by tax, as may be necessary to pay the interest and principal of said bonds as the same shall become due.

§ 3. This act shall take effect immediately, but shall not affect any action or proceeding pending in any court at the time it takes effect.

Chap. 515.*

AN ACT to authorize the electors of the village of Geneseo to vote upon a proposition for improving the streets and highways of said village, and to authorize the issue of bonds for such purposes and to levy a tax therefor.

Became a law, June 12, 1908, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. At any annual or special election called and held as provided in the charter of the village of Geneseo, being chapter two hundred and thirty-seven of the laws of eighteen hundred and seventy-two, and the acts amendatory thereof, there may be submitted to a vote of the electors of such village a resolution authorizing the trustees to issue bonds for the purpose of improving the streets and highways of said village, in an amount not to exceed the sum of one hundred thousand dollars. Only such persons shall be qualified to vote upon such resolution as are qualified to vote upon a proposition to raise money by taxation in such village.

§ 2. If such resolution shall be adopted, the board of trustees shall cause bonds to be issued upon the faith and credit of such village to an amount not to exceed the sum specified in such resolution. Such bonds shall be signed by the president and the treasurer of such village, and shall be attested by the clerk under the corporate seal thereof. They shall become due within seventy-five years from the date of issue, and they shall be so issued as to

* Passed at extraordinary session.

provide for the payment of the indebtedness in equal installments, the first of which shall be payable not more than five years from their date. They shall bear interest at a rate not exceeding five per centum per annum and shall be negotiated for not less than their par value. They shall be sold on sealed proposals or at public auction upon notice duly published in each of the newspapers printed and published in such village and in such other newspapers as the board of trustees may determine. They shall be consecutively numbered from one to the highest number issued, and the clerk shall keep a record of the number of each bond or obligation, its date, amount, rate of interest, when and where payable and the purchaser thereof or the person to whom they are issued. The board of trustees of such village shall raise by annual tax in the same manner as other taxes for village purposes an amount sufficient to pay the interest on such bonds and the principal thereof as they become due.

§ 3. The board of trustees of such village are hereby authorized to expend the amount realized from the sale of such bonds for the purposes specified in section one of this act.

§ 4. This act shall take effect immediately.

Chap. 516.*

AN ACT making an appropriation for the expenses of the special session of the legislature called by proclamation of the governor to convene May eleventh, nineteen hundred and eight.

Became a law, June 12, 1908, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The sum of forty thousand dollars is hereby appropriated out of any moneys in the treasury not otherwise appropriated, for mileage of members, compensation of employees, postage and express, and other contingent expenses of the legislature for the special session convened by proclamation of the Governor on May eleventh, nineteen hundred and eight, out of which sum shall be paid to William C. Wallace, Senator from the forty-seventh district, one thousand five hundred dollars ($1,500).

§ 2. This act shall take effect immediately.

* Passed at extraordinary session.

Chap. 517.*

AN ACT making appropriations for certain expenses of government and supplying deficiencies in former appropriations.

Became a law, June 12, 1908, with the approval of the Governor. Passed three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The treasurer shall pay, on the warrant of the comptroller, from the several funds specified, to the persons, and for the purposes indicated in this act, the amounts named or so much thereof as shall be sufficient to accomplish, in full, the purposes designated by the appropriations, which several amounts are hereby appropriated out of any moneys in the treasury not otherwise appropriated. No warrants shall be issued, except in cases of salaries, until the amounts claimed shall have been audited and allowed by the comptroller, who is hereby authorized to determine the same, upon vouchers presented as required by section twelve of the state finance law. Whenever an appropriation shall have been provided otherwise the sum herein directed to be paid shall not be considered as an addition to such other appropriation unless it shall be expressly so declared in this act.

FROM THE GENERAL FUND.

LEGISLATURE.

For the clerks of the senate and assembly; for the clergymen officiating as chaplains to be paid at the rate of five dollars for each day's attendance; for printing, stationery and supplies; for preparation, proof-reading and comparison of journals; clerical and stenographic services; for expenses of receiving reports and printed documents, addressing and forwarding the same; and for other contingent expenses; the payments for the same to be made upon the warrant of the comptroller and the certificate of the clerk of the senate or assembly respectively, the sum of eight thousand dollars ($8,000), or so much thereof as may be necessary.

ATTORNEY-GENERAL.

For the payment of the costs of the clerks of the United States circuit and supreme courts for certifying, and costs of printing

* Passed at extraordinary session.

the record on appeal in the case of the Consolidated Gas Company against William S. Jackson as attorney-general, ten thousand dollars ($10,000), or so much thereof as may be necessary.

DEPARTMENT OF AGRICULTURE.

For the purpose of carrying into effect article four of the agriculture law, together with the payment of the expenses and salaries of the employees therein authorized, the sum of seventy-five thousand dollars ($75,000), or so much thereof as may be necessary.

EDUCATION.

For expenses of optometry examinations and certification of practitioners of optometry, as required by chapter four hundred sixty of the laws of nineteen hundred and eight, including postage, express, parchment for licenses, printing, engraving, supplies, traveling expenses of examiners, rooms for holding examinations, services of persons temporarily employed to conduct such examinations, and for services of examiners, one thousand dollars ($1,000), or so much thereof as may be necessary, payable only from fees collected for such examinations and certification.

PUBLIC SERVICE COMMISSION, SECOND DISTRICT.

The sum of three hundred eight thousand eight hundred twenty-six dollars and sixty-three cents (re. $308,826.63), being the balance unexpended of the appropriation made by chapter six hundred eighty-six, laws of nineteen hundred six, to carry into effect the provisions of chapter seven hundred and fifty-four of the laws of eighteen hundred and ninety-seven relative to the abolition of grade crossings, and the acts amendatory thereof and supplemental thereto, is hereby reappropriated for the same purposes.

§ 2. This act shall take effect immediately.

Chap. 518.*

AN ACT to amend the agricultural law, in relation to the diseases of domestic animals.

Became a law, June 12, 1908, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. A new section is hereby added to the agricultural law, to be known and designated as section sixty-three-a and to read as follows:

§ 63-a. **Care of diseased animals; experiments.**— If after examination an animal is, in the judgment of the person making the examination, suffering from tuberculosis, such animal shall be slaughtered under the provisions of this article, or, if the commissioner deems that a due regard for the public health warrants it, he may enter into a written agreement with the owner, subject to such conditions as the commissioner of agriculture may prescribe, for the separation and quarantine of such diseased animal or animals. Subject to the regulations of the department of agriculture, such diseased animal or animals may continue to be used for breeding purposes and its or their milk, after pasteurization at one hundred and eighty-five degrees Fahrenheit, may be used for the manufacture of butter or cheese or for sale. The young of any such diseased animal or animals shall, immediately after birth, be separated from their mothers, but may be fed the milk drawn from such affected animal or animals so separated and quarantined after such milk has been pasteurized as herein provided. The owner of a herd of cattle, within the state, may apply to the commissioner of agriculture for examination of his herd by the tuberculin test; said application to be in writing upon a blank form provided by the commissioner of agriculture and to include an agreement on the part of the owner or owners of the herd to improve faulty sanitary conditions; to disinfect his premises, should diseased cattle be found, and to follow instructions of the commissioner of agriculture designed to prevent the reinfection of the herd and to suppress the disease or prevent the spread thereof. The commissioner of agriculture shall, as soon as practicable, cause such cattle to be examined ac-

* Passed at extraordinary session.

cordingly, subject to the provisions of the agricultural law. When the commissioner deems that the conditions warrant it he may make and issue to such owner a certificate that upon such examination such herd was found free from tuberculosis or that the owner has complied with the provisions of this section by causing all affected animals to be separated from the herd and quarantined as provided herein subject to the regulations of the department of agriculture. The commissioner of agriculture may determine the place of slaughter of an animal to be killed under the provisions of the agricultural law. The commissioner may experiment or cause such experiments to be made or performed as he may deem necessary to ascertain or determine the best methods or means for the control, suppression or eradication of communicable or infectious disease or diseases affecting domestic animals. No person shall sell any animal known to have a communicable or infectious disease except for immediate slaughter unless such sale be made under a written contract signed by both parties specifying the disease with which such animal is infected, a copy of which shall be filed in the office of the commissioner of agriculture. No person shall knowingly inject into any bovine animal as and for tuberculin any substance which is not tuberculin.

§ 2. Section sixty-seven of such chapter, as amended by chapter three hundred and twenty-one of the laws of nineteen hundred and one, and chapter two hundred and fifty-three of the laws of nineteen hundred and four, is hereby amended to read as follows:

§ 67. **Bureau of veterinary service; chief veterinarian; appraisers.**— There is hereby established in the department of agriculture a bureau of veterinary service. The bureau shall be in charge of a chief veterinarian, who shall be an experienced veterinarian appointed by the commissioner of agriculture. He shall receive an annual salary of three thousand dollars and all necessary traveling and other expenses incurred in the performance of his duties. Such chief veterinarian or other veterinarians employed by the commissioner shall have all the powers of an appraiser of condemned animals under this article. The chief veterinarian shall, under the direction of the commissioner of agriculture, have general charge of the enforcement of the provisions of this article, and shall collect and disseminate through farmers' institutes or otherwise, as the commissioner may direct, informa-

tion and statistics in relation to the diseases of domestic animals, the proper care and sanitation of stables and other buildings used for the stabling of farm animals for the purpose of preventing the existence and spread of infectious and contagious diseases, the methods of feeding, the methods of improving the breed or milking qualities of cattle, and such other matters as the commissioner may direct. All veterinarians in the state shall immediately report to the commissioner of agriculture the existence among animals of any infectious or communicable disease coming to their knowledge. The report shall be made in writing and shall include a description of the diseased animal or animals, the name and address of the owner or person in charge of the animal, if known, and a statement as to the location of the animal. No person shall conceal or attempt to conceal any animal suffering from an infectious or communicable disease so that the same shall not come to the knowledge of the commissioner of agriculture. The commissioner of agriculture may appoint and at pleasure remove two confidential agents at salaries not to exceed eighteen hundred dollars, to be fixed by the commissioner, to assist in carrying out the provisions of this statute. He may appoint and at pleasure remove one state appraiser of condemned animals, who shall be a person of experience and well acquainted with the value of farm animals; and shall receive an annual salary of fifteen hundred dollars, and all necessary traveling and other expenses incurred in the performance of his duties. The commissioner of agriculture may employ from time to time such additional appraisers of condemned animals as the work of his department may necessitate, who shall receive compensation at the rate of five dollars per diem and all traveling and other expenses necessarily incurred while engaged in the performance of their duties.

§ 3. Section sixty-eight of such chapter, as amended by chapter three hundred and twenty-one of the laws of nineteen hundred and one, is hereby amended to read as follows:

§ 68. **Appraisal of diseased animals.**— An appraiser shall determine the value of each animal directed to be slaughtered. Such value shall be the market value of such animals at the time of making the appraisement, but the appraisal value of each animal shall not exceed the sum of seventy-five dollars. If the value of the condemned animals determined by the appraiser is not satisfactory to the owner of such animals, the value shall be

determined by arbitrators, one to be appointed by the state appraiser and one by the owner of the animals. If such arbitrators are not able to agree as to the value of the animals, a third arbitrator shall be appointed by them. The value determined by such arbitrators shall not exceed the limits established by this act and, after approval by the commissioner of agriculture, shall be final. The arbitrators selected by the owner of the animals shall be paid by the said owner, the other arbitrator or arbitrators shall be paid by the state at a rate of compensation not to exceed five dollars per day and necessary expenses. Such appraiser of condemned animals and the arbitrators appointed under this section may administer oaths to and examine witnesses.

§ 4. Section seventy-a of such chapter, as inserted by chapter three hundred and twenty-one of the laws of nineteen hundred and one, and amended by chapter one hundred and sixty-seven of the laws of nineteen hundred and five, is hereby amended to read as follows:

§ 70-a. **Compensation of owners of animals destroyed.**— The actual appraised value, at the time they are killed of all animals slaughtered under the provisions of this article, which shall be found upon a post-mortem examination not to have had the disease for which they were slaughtered, unless the same were killed on account of the violation of quarantine regulations, shall be paid to the owners of such animals. If such animals are found upon post-mortem examination to have been suffering from tuberculosis, then they shall be paid for in the manner following, to wit: If an animal has localized tuberculosis, the owner thereof shall be paid eighty per centum of the appraised value. If the animal has generalized tuberculosis, the owner thereof shall be paid therefor fifty per centum of the appraised value, but no animal slaughtered under the provisions of this article shall be paid for as herein provided unless the said animal shall have been within the state for a period of at least six months. If the meat of the slaughtered animal shall be passed for use as food, under official regulations, the commissioner of agriculture is hereby authorized to sell the same and the proceeds from the sale of the meat, hide and other marketable parts of the said animal shall be paid into the state treasury. For each and every day the owner or custodian of the animals condemned is obliged to keep them, in excess of seven days from the date of the condemnation, he shall be allowed and paid the sum of twenty-five cents per day per head. The certifi-

cate of appraisal, and the statement of the result of the post-mortem examination shall be presented by the owner or his legal representatives or assigns to the commissioner of agriculture. The commissioner of agriculture shall issue his order for the amount due as shown by such certificate and statement, after he has found them to be correct, which shall be paid by the state treasurer on the warrant of the comptroller out of moneys appropriated therefor. No compensation shall be made to any person who has wilfully concealed the existence of disease among his animals or upon his premises, or who in any way by act, or by wilful neglect has contributed to spread the disease sought to be suppressed or prevented, nor for any animal which upon a post-mortem examination is found to have the disease on account of which it was slaughtered or any dangerously contagious or infectious disease that would warrant the destruction of such animal, except as herein provided.

§ 5. This act shall take effect immediately.

Chap. 519.*

AN ACT to amend the code of civil procedure, in relation to the jurisdiction of the court of claims.

Became a law, June 16, 1908, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section two hundred and sixty-four of the code of civil procedure is hereby amended to read as follows:

§ 264. **Jurisdiction.**— The court of claims possesses all of the powers and jurisdiction of the board of claims. It also has jurisdiction to hear and determine a private claim against the state, including a claim of an executor or administrator of a decedent who left him or her surviving a husband, wife or next of kin, for damages for a wrongful act, neglect or default, on the part of the state by which the decedent's death was caused, which shall have accrued within two years before the filing of such claim and the state hereby consents, in all such claims, to have its liability determined. It may also hear and determine any

* **Passed at extraordinary session.**

claim on the part of the state against the claimant, or against his assignor at the time of the assignment; and must render judgment for such sum as should be paid by or to the state. But the court has no jurisdiction of a claim submitted by law to any other tribunal or officer for audit or determination except where the claim is founded upon express contract and such claim, or some part thereof, has been rejected by such tribunal or officer. In no case shall any liability be implied against the state, and no award shall be made on any claim against the state except upon such legal evidence as would establish liability against an individual or corporation in a court of law or equity. No claim other than for the appropriation of land shall be maintained against the state unless the claimant shall within six months after such claim shall have accrued, file in the office of the clerk of the court of claims and with the attorney-general a written notice of intention to file a claim against the state, stating the time when, and the place where such claim arose and in detail the nature of the same, which notice shall be signed and verified by the claimant before an officer authorized to administer oaths. The attorney-general may require any person filing such a notice of claim for any cause whatever against the state to be sworn before him or one of his deputies designated by him for that purpose within the county of the claimant's residence, relating to such claim and when so sworn, to answer orally as to any facts relative to the justness of such claim. Willful false swearing before the attorney-general or deputy attorney-general is perjury and punishable as such. Provided, however, that nothing herein shall be construed to confer jurisdiction of any claim which accrued more than three years prior to the time when this section, as amended, takes effect, but, as to claims which accrued within three years prior to the time when this section, as amended, takes effect, and as to claims which have heretofore been filed in the court of claims and which have been dismissed for lack of jurisdiction within three years last past the court shall have jurisdiction, if a notice of intention to file such claim is filed in the office of the clerk of the court of claims and with the attorney-general within six months and such claim is filed within one year after this section, as amended, takes effect. Provided further, that nothing herein contained shall be construed to allow the court to hear any claim which as between citizens of the state would be barred by

lapse of time or of any claim heretofore accrued and of which the said court has had jurisdiction and which was barred by lapse of time at the date when this section, as amended, takes effect.

§ 2. This act shall take effect September one, nineteen hundred and eight.

Chap. 520.*

AN ACT to amend the labor law, in relation to the organization of the department of labor, in relation to the enforcement of such laws.

Became a law, June 16, 1908, with the approval of the Governor. Passed by a two-thirds vote.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section thirty-two of chapter four hundred and fifteen of the laws of eighteen hundred and ninety-seven, entitled "An act in relation to labor, constituting chapter thirty-two of the general laws," as amended by chapter five hundred and five of the laws of nineteen hundred and seven, is hereby amended to read as follows:

§ 32. **Bureaus.**— The department of labor shall be divided into four bureaus as follows: Factory inspection, labor statistics, mediation and arbitration, and mercantile inspection.

§ 2. Section thirty-three of said act as amended by chapter five hundred and five of the laws of nineteen hundred and seven is hereby amended to read as follows:

§ 33. **Powers.**— Subdivision 1. The commissioner of labor, his deputies and their assistants and each special agent, deputy factory inspector, mercantile inspector, and deputy mercantile inspectors may administer oaths and take affidavits in matters relating to the provisions of this chapter.

Subd. 2. No person shall interfere with, obstruct or hinder by force or otherwise the commissioner of labor, his deputies, their assistants or the special agents, deputy factory inspectors, the mercantile inspector, or deputy mercantile inspectors while in the performance of their duties, or refuse to properly answer questions asked by such officers pertaining to the provisions of this chapter or refuse them admittance to any place where and when

* Passed at extraordinary session.

labor is being performed which is affected by the provisions of this chapter.

Subd. 3. All notices, orders and directions of deputies, assistants, special agents, deputy factory inspectors, the mercantile inspector and deputy mercantile inspectors, given in accordance with this chapter are subject to the approval of the commissioner of labor. And all acts, notices, orders, permits and directions by any provisions of this chapter directed to be performed or given by the factory inspector, chairman of the board of mediation and arbitration, mercantile inspector or other officer of the department of labor may be performed or given by and in the name of the commissioner of labor and by any officer of the department thereunto duly authorized by such commissioner in the name of such commissioner.

Subd. 4. The commissioner of labor may procure and cause to be used badges for himself and his subordinates in the department of labor while in the performance of their duties.

§ 3. Section thirty-four of said act as amended by chapter five hundred and five of the laws of nineteen hundred and seven is hereby amended to read as follows:

§ 34. **Salaries and expenses.**— All necessary expenses incurred by the commissioner of labor in the discharge of his duties shall be paid by the state treasurer upon the warrant of the comptroller issued upon proper vouchers therefor. The reasonable and necessary traveling and other expenses of the deputy commissioners, their assistants, the special agents and statisticians, the deputy factory inspectors, the mercantile inspectors, deputy mercantile inspectors, and other field officers of the department while engaged in the performance of their duties shall be paid in like manner upon vouchers approved by the commissioner of labor and audited by the comptroller.

§ 4. Section one hundred and sixty-seven of said act as amended by chapter two hundred and fifty-five of the laws of nineteen hundred and three, and chapter four hundred and ninety-three of the laws of nineteen hundred and five, is hereby amended to read as follows:

§ 167. **Registry of children employed.**— The owner, manager, or agent of a mercantile or other establishment specified in section one hundred and sixty-one, employing children, shall keep or cause to be kept, in the office of such establishment, a register, in which shall be recorded the name, birthplace, age and place of

residence of all children so employed under the age of sixteen years. Such register and the certificates filed in such office shall be produced for inspection, upon the demand of an officer of the board, department or commissioner of health of the town, village or city where such establishment is situated, or if such establishment is situated in a city of the first class upon the demand of the commissioner of labor. On termination of the employment of the child so registered and whose certificate is so filed, such certificate shall be forthwith surrendered by the employer to the child or its parent or guardian or custodian. An officer of the board, department or commissioner of health of the town, village or city where a mercantile or other establishment mentioned in this article is situated, or if such establishment is situated in a city of the first class the commissioner of labor, may make demand on an employer in whose establishment a child apparently under the age of sixteen years is employed or permitted or suffered to work, and whose employment certificate is not then filed as required by this chapter, that such employer shall either furnish him within ten days, evidence satisfactory to him that such child is in fact over sixteen years of age, or shall cease to employ or permit or suffer such child to work in such establishment. The officer may require from such employer the same evidence of age of such child as is required on the issuance of an employment certificate; and the employer furnishing such evidence shall not be required to furnish any further evidence of the age of the child. A notice embodying such demand may be served on such employer personally or may be sent by mail addressed to him at said establishment, and if served by post shall be deemed to have been served at the time when the letter containing the same would be delivered in the ordinary course of the post. When the employer is a corporation such notice may be served either personally upon an officer of such corporation, or by sending it by post addressed to the office of the principal place of business of such corporation. The papers constituting such evidence of age furnished by the employer in response to such demand shall, except in cities of the first class, be filed with the board, department, or commissioner of health, and in cities of the first class with the commissioner of labor, and a material false statement made in any such paper or affidavit by any person, shall be a misdemeanor. In case such employer shall fail to produce and deliver to the officer of the board, department, or commissioner of health, or in cities of the first

class to the commissioner of labor, within ten days after such demand such evidence of age herein required by him, and shall thereafter continue to employ such child or permit or suffer such child to work in such mercantile or other establishment, proof of the giving of such notice and of such failure to produce and file such evidence shall be prima facie evidence in any prosecution brought for a violation of this article that such child is under sixteen years of age and is unlawfully employed.

§ 5. Section one hundred and sixty-eight of said act is hereby amended to read as follows:

§ 168. **Wash-rooms and water-closets.**— Suitable and proper wash-rooms and water-closets shall be provided in, adjacent to or connected with mercantile establishments where women and children are employed. Such rooms and closets shall be so located and arranged as to be easily accessible to the employees of such establishments. Such water-closets shall be properly screened and ventilated, and, at all times, kept in a clean condition. The water-closets assigned to the female employees of such establishments shall be separate from those assigned to the male employees. If a mercantile establishment has not provided wash-rooms and water-closets, as required by this section, the board or department of health or health commissioners of the town, village or city where such establishment is situated, unless such establishment is situated in a city of the first class in which case the commissioner of labor shall cause to be served upon the owner, agent or lessee of the building occupied by such establishment, a written notice of the omission and directing such owner, agent or lessee to comply with the provisions of this section respecting such wash-rooms and water-closets. Such owner shall, within fifteen days after the receipt of such notice, cause such wash-rooms and water-closets to be provided.

§ 6. Section one hundred and sixty-nine of said act is hereby amended to read as follows:

§ 169. **Lunch-rooms.**— If a lunch-room is provided in a mercantile establishment where females are employed, such lunch-room shall not be next to or adjoining the water-closets, unless permission is first obtained from the board or department of health or health commissioners of the town, village or city where such mercantile establishment is situated, unless such establishment is situated in a city of the first class in which case such permission

must be obtained from the commissioner of labor. Such permission shall be granted unless it appears that proper sanitary conditions do not exist, and it may be revoked at any time by the board or department of health or health commissioner, if it appears that such lunch-room is kept in a manner or in a part of the building injurious to the health of the employees, unless such establishment is situated in a city of the first class in which case said permission may be so revoked by the commissioner of labor.

§ 7. Section one hundred and seventy-one of said act is hereby amended to read as follows:

§ 171. **Employment of women and children in basements.**— Women or children shall not be employed or permitted to work in the basement of a mercantile establishment, unless permitted by the board or department of health, or health commissioner of the town, village or city where such mercantile establishment is situated, unless such establishment is situated in a city of the first class in which case such permission must be obtained from the commissioner of labor. Such permission shall be granted unless it appears that such basement is not sufficiently lighted and ventilated, and is not in good sanitary condition.

§ 8. Section one hundred and seventy-two of said act as amended by chapter two hundred and fifty-five of the laws of nineteen hundred and three is hereby amended to read as follows:

§ 172. **Enforcement of article.**— Except in cities of the first class the board or department of health or health commissioners of a town, village or city affected by this article shall enforce the same and prosecute all violations thereof. Proceedings to prosecute such violations must be begun within sixty days after the alleged offense was committed. All officers and members of such boards, or department, all health commissioners, inspectors, and other persons appointed or designated by such boards, departments or commissioners may visit and inspect at reasonable hours and when practicable and necessary, all mercantile or other establishments herein specified within the town, village or city for which they are appointed. No person shall interfere with or prevent any such officer from making such visitations and inspections, nor shall he be obstructed or injured by force or otherwise while in the performance of his duties. All persons connected with any such mercantile or other establishment herein specified shall properly answer all questions asked

by such officer or inspector in reference to any of the provisions of this article. In cities of the first class the commissioner of labor shall enforce the provisions of this article, and for that purpose he and his subordinates shall possess all powers herein conferred upon town, village, or city boards and departments of health and their commissioners, inspectors, and other officers, except that the board or department of health of said cities of the first class shall continue to issue employment certificates as provided in section one hundred and sixty-three of said chapter.

§ 9. Section one hundred and seventy-three of said act as amended by chapter two hundred and fifty-five of the laws of nineteen hundred and three is hereby amended to read as follows:

§ 173. **Copy of article to be posted.**— Except as other provision is made by this act, a copy of this article shall be posted in a conspicuous place on every floor in each establishment wherein three or more persons are employed who are affected by its provisions.

§ 10. The said act is hereby further amended by inserting between articles twelve and fourteen of said act, a new article to be known as article thirteen, and to read as follows:

ARTICLE XIII.

BUREAU OF MERCANTILE INSPECTION.

Section 180. Mercantile inspectors.
181. Deputies.
182. General powers and duties.
183. Reports.
184. Laws to be posted.

§ 180. **Mercantile inspector.**— There shall be a bureau of mercantile inspection, which shall be under the immediate charge of a mercantile inspector, but subject to the direction and supervision of the commissioner of labor. The mercantile inspector shall be appointed and be at pleasure removed by the commissioner of labor, and shall receive such annual salary not to exceed two thousand dollars as may be appropriated therefor.

§ 181. **Deputies.**— The commissioner of labor may appoint from time to time not more than ten deputy mercantile inspectors, not less than two of whom shall be women, and who may be removed by him at any time. The deputy mercantile inspectors

may be divided into three grades, but not more than two shall be of the third grade. Each deputy inspector of the first grade shall receive an annual salary of one thousand dollars, each of the second grade an annual salary of one thousand two hundred dollars, and each of the third grade an annual salary of one thousand five hundred dollars.

§ 182. **General powers and duties.**— Subdivision 1. The commissioner of labor may divide the cities of the first class of the state into districts, assign one or more deputy mercantile inspectors to each district, and may in his discretion transfer them from one district to another; he may assign any of them to inspect any special class or classes of mercantile or other establishments specified in article eleven of this chapter, situated in cities of the first class, or to enforce in cities of the first class any special provisions of such article.

Subd. 2. The commissioner of labor may authorize any deputy commissioner or assistant and any special agent or inspector in the department of labor to act as a deputy mercantile inspector with the full power and authority thereof.

Subd. 3. The commissioner of labor, the mercantile inspector and his assistant or assistants and every deputy or acting deputy mercantile inspector may in the discharge of his duties enter any place, building or room in cities of the first class where any labor is performed which is affected by the provisions of article eleven of this chapter, and may enter any mercantile or other establishment specified in said article, situated in cities of the first class, whenever he may have reasonable cause to believe that any such labor is performed therein.

Subd. 4. The commissioner of labor shall visit and inspect or cause to be visited and inspected the mercantile and other establishments specified in article eleven of this chapter situated in cities of the first class, as often as practicable, and shall cause the provisions of said article to be enforced therein.

Subd. 5. Any lawful municipal ordinance, by-law or regulation relating to mercantile and other establishments specified in article eleven of this chapter, in addition to the provisions of this chapter and not in conflict therewith, may be enforced by the commissioner of labor in cities of the first class.

§ 183. **Reports.**— The commissioner of labor shall make an annual report to the legislature of the operation of this bureau.

§ 184. **Laws to be posted.**— A copy or abstract of the appli-

cable provisions of this chapter, to be prepared and furnished by the commissioner of labor, shall be kept posted by the employer in a conspicuous place on each floor of every mercantile or other establishment specified in article eleven of this chapter, situated in a city of the first class, wherein three or more persons are employed who are affected by such provisions.

§ 7. This act shall take effect October first, nineteen hundred and eight.

Chap. 521.*

AN ACT to amend the election law, in relation to providing a more complete means of identification of electors.

Became a law, June 19, 1908, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision one of section thirty-two of chapter nine hundred and nine of the laws of eighteen hundred and ninety-six, entitled "An act in relation to the elections, constituting chapter six of the general laws," as amended by chapter six hundred and thirty of the laws of eighteen hundred and ninety-nine, chapter one hundred and thirteen of the laws of nineteen hundred and one and chapter six hundred and seventy-five of the laws of nineteen hundred and five, is hereby amended to read as follows:

Subdivision 1. Where personal registration is required.— The board of inspectors of each election district in the state shall, at their meetings for registration for the general election in each year, make a quadruplicate register — one copy by each inspector — in the forms hereinafter prescribed in this subdivision and in subdivision two of this section, of those persons, and none other, who are or will be qualified to vote in such district at such election, which register, when finally completed, shall be the register of electors of the district for such election. Such register shall also be used at all other elections held in such district during the year succeeding the election for which it is made, except for town meetings and village elections for which no registration is required. In all election districts in which personal registration of all electors is required, except in cities containing a population of one million and over, the register shall be arranged in nineteen

* Passed at extraordinary session.

columns and the leaves thereof shall be indexed from A to Z. In the first column of such register there shall be entered at the time of the completion of the registration on the last day for registration, a number opposite the name of each person so enrolled, beginning with "1" opposite the first name entered on the page indexed A and continuing in numerical order to and including the last name entered upon the last page of such register. On each day of registration there shall be entered in the second column thereof the surname of such persons in the alphabetical order of the first letter thereof, on the page bearing the index letter of such surname and in the third column the christian name or names of such persons respectively. In the fourth column shall be entered the residence number or other designation, and in the fifth column the name of the street or avenue of such residence or a brief description of the locality thereof. In the sixth column shall be entered the number of the floor or room occupied by the elector at the residence given by him, and in the seventh column shall be entered his age, in the eighth, ninth and tenth columns shall be entered his length of residence by years, months and days as the case may be in the state, county and election district, respectively; and in the eleventh column shall be entered the country of his nativity, which shall mean the country, state or province of the elector's birth, irrespective of his former political allegiance. In the twelfth column, if he be a naturalized citizen, shall be entered the date of the naturalization certificate under which he claims citizenship and in the thirteenth column shall be entered the designation of the court issuing such naturalization certificate. In the fourteenth, fifteenth, sixteenth and seventeenth columns shall be entered respectively the name of the state, the city or town and the number and name of the street or avenue of the residence of such person from which he last registered or voted, and the year in which he last registered or voted. In the eighteenth column shall be entered the date of the registration of the elector. The nineteenth column shall be reserved for entering the consecutive number on the stub of the official ballot voted by the elector on election day. In the twentieth column shall be entered, opposite the name of each elector, under the heading "remarks" the facts regarding challenges, oaths and other facts affecting such elector required to be recorded. In all election districts in cities containing a population of one million and over the register instead of being arranged as hereinbefore pro-

vided in twenty columns shall be arranged in twenty-two columns, and the leaves thereof shall be indexed from A to Z. In the first column of such register there shall be entered, at the time of the completion of the registration on the last day for registration, a number opposite the name of each person so enrolled, beginning with "1" opposite the first name entered in the page indexed A and continuing in numerical order to and including the last name entered upon the last page of such register. On each day of registration there shall be entered in the second column thereof the surname of such persons in the alphabetical order of the first letter thereof, on the page bearing the index letter of such surname and in the third column the christian name or names of such persons respectively. In the fourth column shall be entered the residence number or other designation, and in the fifth column the name of the street or avenue of such residence or a brief description of the locality thereof. In the sixth column shall be entered the number of the floor or room occupied by the elector at the residence given by him, and in the seventh column shall be entered the full name of the householder, tenant, subtenant or apartment-lessee with whom the elector resides, and in the eighth column shall be entered his age, in the ninth, tenth and eleventh columns shall be entered his length of residence by years, months and days as the case may be, in the state, county and election district, respectively; and in the twelfth column shall be entered the country of his nativity which shall mean the country, state or province of the elector's birth, irrespective of his former political allegiance. In the thirteenth column, if he be a naturalized citizen, shall be entered the date of the naturalization certificate under which he claims citizenship and in the fourteenth column shall be entered the designation of the court issuing such naturalization certificate. In the fifteenth, sixteenth, seventeenth and eighteenth columns shall be entered respectively the name of the state, the city or town, and the street number and the name of the street or avenue of the residence of such person from which such person last registered or voted, and the year in which he last registered or voted. In the nineteenth column shall be entered the date of the registration of the elector. The twentieth column shall be reserved for the signature of the elector at the time of registration or in case the elector alleges his inability to write, for entering therein the number of the "identification statement for registration day" made by such elector as hereinafter provided. Above each hori-

zontal line in the said twentieth column shall be printed the words "the foregoing statements are true" and the elector shall at the time of registration sign his name by his own hand and without assistance using an indelible pencil or ink below such words on the horizontal line in the register of electors designated as the public copy. If the elector alleges his inability to so sign, one of the inspectors, designated by the chairman, shall read to the elector the following list of questions from a book to be furnished said inspector and to be known as "identification statements for registration day," and said inspector shall write down in said book the answers of the elector to said questions: What is your true name? What is or was your father's full name? What is or was your mother's full name? What is your occupation? What is the name of your present employer? If unemployed, what is the name of your last employer? Where is or was his place of business? Are you married or single? Where did you actually reside immediately prior to taking up your present residence; state floor and character of premises? At the bottom of each list of questions shall be printed the following statement: "I certify that I have read to the above named elector each of the foregoing questions and that I have truly recorded his answers as above to each of said questions," and said inspector who has made the above record shall forthwith sign his name to said certificate and date the same. The above questions shall be printed on separate sheets of paper which shall be furnished said inspector bound together in book form and numbered consecutively, and the number corresponding to the number on each sheet containing said list of questions shall be entered when the questions have been answered, in the twentieth column, in the register of electors in which the electors registering have signed their names. Said book of "identification statements for registration day" shall be kept at all times with the register in which the electors sign their names as hereinbefore provided. The registration books as provided in this subdivision together with a sufficient number of identification statements for registration and election days, bound in book form, and the poll-books as herein provided in subdivision four of section one hundred and three, shall be furnished to each board of inspectors in the same manner as the registration and poll-books are now furnished to said boards of inspectors. The twenty-first column shall be reserved for entering the consecutive

number on the stub of the official ballot voted by the elector on election day. In the twenty-second column shall be entered, opposite the name of each elector, under the heading "remarks" the facts regarding challenges, oaths and other facts affecting such elector required to be recorded.

§ 2. Subdivision three of section one hundred and three of such chapter is hereby amended so as to read as follows:

Subdivision 3. Each poll clerk at each polling place for which official ballots are required to be provided, except in cities containing a population of one million and over, shall have a poll-book for keeping the list of electors voting or offering to vote thereat at the election. Such book shall have six columns headed respectively, "Number of elector," "Names of electors," "Residence of electors," "Number on ballots delivered to electors," "Number on ballots voted," and "Remarks." Upon each delivery of an official ballot or set of official ballots by the ballot clerks to an elector, each poll clerk shall enter upon his poll-book in the appropriate column, the number of the elector, in the successive order of the delivery of the ballots thereto, the name of the elector, in the alphabetical order of the first letter of his surname, his residence by street and number, or if he have no street number, a brief description of the locality thereof, the printed number upon the stub of the ballots delivered to such elector, and the number on the ballots voted by him. If the ballot or set of ballots delivered to any elector shall be returned by him to the ballot clerk, and he shall obtain a new ballot or set of ballots, the poll clerk shall write opposite his name on the poll-books, in the proper column, the printed number on the stubs of such ballot or additional set of ballots. Each poll clerk shall make a memorandum upon his poll-book opposite the name of each person who shall have been challenged and taken either of the oaths prescribed upon such challenge, or who shall have received assistance in preparing his ballot and shall also enter upon the poll-book opposite the name of such person the names of the election officers or persons who render such assistance, and the cause or reason assigned for such assistance by the elector assisted. As each elector offers his ballot or set of ballots which he intends to vote to the inspector, each poll clerk shall report to the inspectors whether the number entered on the poll-book kept by him as the number on the ballot or set of ballots last delivered to such elector, is the same as the number on the stub of the ballot or set

of ballots so offered. As each elector votes, each poll clerk shall enter in the proper column on his poll-book the number on the stub of the ballots voted. Upon the close of the polls of the election, the poll clerks and inspectors shall compare the poll-books with the registers and correct any mistakes found therein. The poll clerks shall also during the canvass of the votes, as prescribed by section one hundred and ten of the election law, make and complete the tally sheets of the votes in the form provided by section eighty-four of the election law.

§ 3. Section one hundred and three of such chapter is hereby amended by inserting in said section a new subdivision to be subdivision four thereof, to read as follows:

Subdivision 4. In all election districts in cities containing a population of one million and over, each poll clerk at each polling place for which official ballots are required to be provided shall have a poll-book for keeping the list of electors voting or offering to vote thereat at the election. Such book shall have seven columns headed respectively: "Number of elector," "Names of electors," "Residence of electors," "Signature or statement number of elector," "Number on ballots delivered to electors," "Number on ballots voted," and "Remarks." Previous to each delivery of an official ballot or set of official ballots by the ballot clerk to an elector, each poll clerk shall enter upon his poll-book in the appropriate column the number of the elector, in the successive order of the delivery of ballots to electors, the name of the elector in the alphabetical order of the first letter of his surname, his residence by street and number, or if he has no street number, a brief description of the locality thereof. The column headed "signature or statement number of elector" shall have printed above each horizontal line the words "the foregoing statements are true," and the elector shall previous to the receipt of an official ballot sign his name by his own hand and without assistance, using an indelible pencil or ink, below the said words in the poll-book kept by the poll clerk who shall be designated by the chairman of the board of inspectors. If the elector on registration day alleges his inability to so sign, then one of the poll clerks designated by the chairman of the board of inspectors shall read the same list of questions to the elector as were required to be read on registration days from a book to be provided for election day, and to be known as "identification statements for election day," and said poll clerk shall write the answers of the elector thereto.

Each of these statements shall be numbered and a number corresponding to the number on the statement sheet shall be entered in the fourth column opposite the name of the said elector answering the questions. The questions answered on registration day by the elector shall not be turned to or inspected until all the answers to said questions shall have been written down on election day by said poll clerk. Any person who shall prompt a voter in answering any questions provided in this act shall be guilty of a felony. At the bottom of each list of questions shall be printed the following statement: "I certify that I have read to the above named elector each of the foregoing questions and that I have duly recorded his answers as above to each of said questions," and said poll clerk who has made the above record shall sign his name to said certificate and date the same, and note the time of day of making such record. The comparison of the signatures of an elector made on registration and election days, and a comparison of the answers made by an elector on registration and election days, shall be had in full view of the watchers, and the right to challenge electors shall exist until the ballot shall have been deposited in the ballot box. If the signatures of the elector or the answers to the questions made by the elector do not correspond, then it shall be the privilege of the watchers and challengers to challenge and the duty of each inspector to challenge, unless some other authorized person shall challenge. Each poll clerk shall also enter upon his poll-book in the appropriate column the printed number upon the stub of the ballots delivered to such elector, and the number on the ballots voted by him. If the ballot or set of ballots delivered to any elector shall be returned by him to the ballot clerk, and he shall obtain a new ballot or set of ballots, the poll clerk shall write opposite his name on the poll-books, in the proper column, the printed number on the stubs of such ballot or additional set of ballots. Each poll clerk shall make a memorandum upon his poll-book opposite the name of each person who shall have been challenged and taken either of the oaths prescribed upon such challenge, or who shall have received assistance in preparing his ballot and shall also enter upon the poll-book opposite the name of such person the names of the election officers or persons who render such assistance, and the cause or reason assigned for such assistance by the elector assisted. As each elector offers his ballot or set of ballots which he intends to vote to the inspector, each poll clerk shall report to the inspector

whether the number entered on the poll-book kept by him as the number on the ballot or set of ballots last delivered to such elector is the same as the number on the stub of the ballot or set of ballots so offered. As each elector votes, each poll clerk shall enter in the proper column on his poll-book the number on the stub of the ballots voted. Upon the close of the polls of the election, the poll clerks and inspectors shall compare the poll-books with the registers and correct any mistakes found therein. The poll clerks shall also during the canvass of the votes, as prescribed by section one hundred and ten of the election law, make and complete the tally sheets of the votes in the form provided by section eighty-four of the election law.

§ 4. This act shall take effect immediately.

Chap. 522.*

AN ACT to abolish the grade crossing of the New York Central and Hudson River Railroad and the Buffalo, Rochester and Pittsburg Railroad at Brown street in the city of Rochester.

Became a law, June 19, 1908, with the approval of the Governor. Passed, three-fifths being present.

Accepted by the City.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The grade crossing of the New York Central and Hudson River Railroad and the Buffalo, Rochester and Pittsburgh Railroad at Brown street in the city of Rochester, shall be abolished as herein provided by the carrying of said street under the tracks of said railroads.

§ 2. The plans and specifications for said change, together with an estimate of the expense thereof, shall, as is or may be provided by the railroad law, be submitted to the public service commission of the second district of the state of New York for its approval; and when so approved, the required work shall be done as is or may be provided by the railroad law.

§ 3. The public service commission of the second district of the state of New York may as a part of said work require the

* Passed at extraordinary session.

alteration, change or closing of any street or streets in the city of Rochester necessary to properly carry Brown street under the tracks of said railroads, and the construction of any retaining walls or embankments necessary therefor.

§ 4. Except as herein modified, all the provisions of the railroad law as now existing or hereafter amended in relation to a change in an existing crossing of a public highway at grade by a railroad or railroads, shall apply to the said alteration of the crossing of Brown street by said railroads; and, except as herein modified, the public service commission of the second district of the state of New York and the city of Rochester, its boards and officers, and the corporations owning said railroads, shall have all the powers, liabilities and duties in relation thereto as is or may be conferred and imposed by the railroad law; and the cost and expense thereof shall be paid as is or may be provided by the railroad law.

§ 5. All acts and parts of acts inconsistent herewith are hereby repealed in so far as they relate to the alteration or change of said grade crossing.

§ 6. This act shall take effect immediately.

Chap. 523.*

AN ACT to amend section one hundred and seventy-six of chapter seven hundred and sixty of the laws of eighteen hundred and ninety-seven, as amended, entitled "An act to revise the charter of the city of Watertown."

Became a law, June 24, 1908, with the approval of the Governor. Passed, three-fifths being present.

Accepted by the City.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section one hundred and seventy-six of chapter seven hundred and sixty of the laws of eighteen hundred and ninety-seven as amended by chapter three hundred and twenty-seven of the laws of nineteen hundred and eight, entitled "An

* Passed at extraordinary session.

act to revise the charter of the city of Watertown," is hereby amended so as to read as follows:

§ 176. The common council must annually cause to be levied and raised by general tax upon all taxable property, real and personal, in the city, according to the valuation upon the assessment roll for the current year, corrected as aforesaid:

First. The amount of taxes certified to the city clerk of the city by the board of supervisors to be assessed upon the city.

Second. The amount of all interest and any installment of principal falling due upon the bonds or other permanent debt of the city, which shall be kept in a separate fund to be called the "public debt fund," except as herein otherwise expressly provided.

Third. The amount necessary to defray the expenses for the next fiscal year of the board of education, the board of public works, board of water works, the board of public safety, the board of health, the board of charity, the Roswell P. Flower memorial library, the municipal civil service commission and the plumbing board, to be determined by the common council upon the estimates of the aforesaid boards, trustees of the Roswell P. Flower memorial library and municipal civil service commission, as in this act provided.

Fourth. The amount necessary to pay the salaries and wages of all officers and servants of the city not provided for in the third subdivision of this section, and all other necessary, ordinary and contingent expenses of the city not otherwise provided for, which, with all other moneys received by the treasurer, not belonging to any other fund specified by this act, shall be kept as a separate fund, to be called the "general city fund." Provided, that the amount of the tax raised in any year for the aforesaid city expenses, excluding the amount to be raised for state and county purposes and excluding the amount of all interest and any installment of principal falling due upon the bonds or other permanent debt of the city, shall not exceed one dollar and seventy cents upon every one hundred dollars of the assessed valuation of taxable property in said city.

§ 2. This act shall take effect immediately.

Chap. 524.*

AN ACT to authorize the city of New Rochelle to borrow money by the issue of bonds for the purpose of taking up certificates of indebtedness and paying emergency obligations of the city for the repair of pavements.

Became a law, June 24, 1908, with the approval of the Governor. Passed, three-fifths being present.

Accepted by the City.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The common council of the city of New Rochelle is hereby authorized and empowered by resolution of its body to issue and sell bonds in the name of, in behalf of and upon the credit of said city in an amount not exceeding in the aggregate the sum of one hundred and forty-five thousand dollars par value so far as the same may be determined advisable and necessary by said common council for the following named purposes:

1. To pay certificates of indebtedness issued against unpaid taxes for the year nineteen hundred and four, nineteen hundred and five and nineteen hundred and six, in the aggregate amount not to exceed ninety-two thousand five hundred and sixty-two dollars and forty-six cents, together with accrued interest thereon as follows: For the year nineteen hundred and four, not to exceed the sum of eleven thousand one hundred and forty-eight dollars and sixteen cents; for the year nineteen hundred and five, not to exceed the sum of twenty-six thousand eight hundred and fifty-eight dollars and eleven cents; for the year nineteen hundred and six, not to exceed the sum of fifty-three thousand seven hundred and sixteen dollars and thirty-two cents, the said sums being the several amounts of the taxes for each of the said years respectively against which said certificates were severally issued that have been paid in and applied to defray the excess of costs over appropriation for the following named public improvements and uses, thereby causing a deficiency on the thirty-first day of December, nineteen hundred and seven, in the fund of said city for the redemption of said certificates to such said amounts: North avenue improvement, Meadow Lane drain improvement, Pelham road improvement, Webster avenue improvement (one and

* Passed at extraordinary session.

two), Lockwood and Webster avenue improvement, dock impro ment, Hudson park improvement, street improvements and st paving improvements.

2. To redeem certificates of indebtedness of said city in aggregate amount of thirty thousand dollars together w accrued interest thereon, issued against unpaid taxes for t years nineteen hundred and two and nineteen hundred and thr now outstanding for a period of five years or which shall becom outstanding for such period during the year nineteen hundred an eight.

3. To pay contractual obligations of said city to the amount o fifteen thousand, four hundred and thirty-five dollars and thirty seven cents incurred by the said city in the repair of th sheet asphalt and block asphalt pavement of said city during the year nineteen hundred and seven an expenditure not anticipated in the budget of the year nineteen hundred and seven, in amounts as follows: Five thousand one hundred and eighty-one dollars and ninety-nine cents to the Barber Asphalt Company for the repair to the sheet asphalt pavement and ten thousand two hundred and fifty-three dollars and thirty-eight cents to the Hastings Paving Company for repair to the block asphalt pavement of said city. And the proceeds of such said bonds shall be applied by the said common council for the objects and purposes hereinbefore stated and for no other purpose.

§ 2. Said bonds shall be issued in the name and under the seal of the said city, signed by the mayor and city clerk thereof, and shall be for the sum of one thousand dollars each and bearing such interest as the common council shall determine, not exceeding the rate of five per centum per annum, payable semi-annually; they shall be paid in such installments and at such times, within twenty-five years from their date, as the common council shall determine and principal and interest thereof shall be payable at the office of the city treasurer of said city. Said bonds shall be numbered consecutively from one to the highest number issued, and shall be known and designated as relief bonds, and be in such form as the common council shall prescribe, and shall contain a recital that they are issued pursuant to and in conformity with the provisions of this act, which recital shall be conclusive evidence of their validity, and of the regularity of their issue; and the said treasurer of said city shall keep a record in his office of the number of each bond, its date,

amount, rate of interest, when payable and the name of the purchaser thereof.

§ 3. Said common council shall sell and dispose of said bonds or any part thereof at not less than par and accrued interest by sealed proposals after bids therefor have been advertised in the city official newspapers at least once a week for two weeks and a newspaper published in the city of New York, to be designated by the mayor, daily, for at least five days prior to the time of such sale. Said bonds shall be sold to the highest bidder, but the city shall reserve the right to reject any and all bids. The common council may require each bid to be accompanied by the deposit of a certified check or cash in such sum as it may determine, to be forfeited to the city if the party or parties to whom the bonds may be awarded shall fail to take and pay for the same in accordance with the terms of sale.

§ 4. The common council of said city in the manner provided in chapter one hundred and twenty-eight of the laws of eighteen hundred and ninety-nine, shall cause such taxes to be levied and collected as may be necessary to pay the principal and interest of said bonds as they shall become due, until said bonds and interest thereon are fully paid.

§ 5. All acts or parts of acts, general or special, inconsistent with this section are hereby repealed.

§ 6. This act shall take effect immediately.

CONCURRENT RESOLUTIONS

OF THE

SENATE AND ASSEMBLY.

CONCURRENT RESOLUTION of the senate and assembly proposing an amendment to section twelve of article six of the constitution, in relation to the compensation of justices of the supreme court.

Section 1. Resolved (if the senate concur), That section twelve of article six of the constitution be amended to read as follows:

§ 12. No person shall hold the office of judge or justice of any court longer than until and including the last day of December next after he shall be seventy years of age. Each justice of the supreme court shall receive from the state the sum of ten thousand dollars per year. Those assigned to the appellate divisions in the third and fourth departments shall each receive in addition the sum of two thousand dollars, and the presiding justices thereof the sum of two thousand five hundred dollars per year. Those justices elected in the first and second judicial departments shall continue to receive from their respective cities, counties or districts, as now provided by law, such additional compensation as will make their aggregate compensation what they are now receiving. Those justices elected in any judicial department other than the first or second, and assigned to the appellate divisions of the first or second departments shall, while so assigned, receive from those departments respectively, as now provided by law, such additional sum as is paid to the justices of those departments. A justice elected in the third or fourth department assigned by the appellate division or designated by the governor to hold a trial or special term in a judicial district other than that in which he is elected shall receive in addition ten dollars per day for ex-

penses while actually so engaged in holding such term, which shall be paid by the state and charged upon the judicial district where the service is rendered. The compensation herein provided shall be in lieu of and shall exclude all other compensation and allowance to said justices for expenses of every kind and nature whatsoever. The provisions of this section shall apply to the judges and justices now in office and to those hereafter elected.

§ 2. Resolved (if the senate concur), That the foregoing amendment be referred to the legislature to be chosen at the next general election of senators, and, in conformity with section one, article fourteen of the constitution, be published for three months previous to the time of such election.

STATE OF NEW YORK,
IN SENATE, *April* 14, 1908.

The foregoing resolution was duly passed, a majority of all the Senators elected voting in favor thereof, three-fifths being present.

By order of the Senate,
L. S. CHANLER,
President.

STATE OF NEW YORK,
IN ASSEMBLY, *March* 31, 1908.

The foregoing resolution was duly passed, a majority of all the members elected to the Assembly voting in favor thereof, three-fifths being present.

By order of the Assembly,
J. W. WADSWORTH, JR.,
Speaker.

CONCURRENT RESOLUTION of the senate and assembly proposing an amendment to section four of article seven of the constitution, permitting the legislature to alter the rate of interest upon debts authorized pursuant to said section.

Section 1. Resolved (if the assembly concur), That section four of article seven of the constitution be amended so as to read as follows:

§ 4. Except the debts specified in sections two and three of this article, no debts shall be hereafter contracted by or in behalf of this state, unless such debt shall be authorized by law, for some single work or object, to be distinctly specified therein; and such law shall impose and provide for the collection of a direct annual tax to pay, and sufficient to pay, the interest on such debt as it falls due, and also to pay and discharge the principal of such debt within fifty years from the time of the contracting thereof. No such law shall take effect until it shall, at a general election, have been submitted to the people, and have received a majority of all the votes cast for and against it at such election. On the final passage of such bill in either house of the legislature, the

uestion shall be taken by ayes and noes, to be duly entered on e journals thereof, and shall be: "Shall this bill pass, and ught the same to receive the sanction of the people?" The gislature may at any time after the approval of such law by e people, if no debt shall have been contracted in pursuance ereof, repeal the same; and may at any time, by law, forbid e contracting of any further debt or liability under such law; it the tax imposed by such act, in proportion to the debt and ability which may have been contracted in pursuance of such w, shall remain in force and be irrepealable, and be annually llected, until the proceeds thereof shall have made the provision ereinbefore specified to pay and discharge the interest and prin- pal of such debt and liability. The money arising from any an or stock creating such debt or liability shall be applied to e work or object specified in the act authorizing such debt or ability, or for the payment of such debt or liability, and for no ther purpose whatever. No such law shall be submitted to be oted on within three months after its passage or at any general lection when any other law, or any bill shall be submitted to e voted for or against. The legislature may provide for the sue of bonds of the state to run for a period not exceeding fifty ears in lieu of bonds heretofore authorized but not issued and hall impose and provide for the collection of a direct annual tax or the payment of the same as hereinbefore required. When any inking fund created under this section shall equal in amount the ebt for which it was created, no further direct tax shall be levied n account of said sinking fund, and the legislature shall reduce he tax to an amount equal to the accruing interest on such debt. The legislature may from time to time alter the rate of interest to e paid upon any state debt, which has been or may be authorized ursuant to the provisions of this section, or upon any part of uch debt, provided, however, that the rate of interest shall not e altered upon any part of such debt or upon any bond or other vidence thereof, which has been, or shall be created or issued efore such alteration. In case the legislature increase the rate f interest upon any such debt, or part thereof, it shall impose nd provide for the collection of a direct annual tax to pay and ufficient to pay the increased or altered interest on such debt as

it falls due and also to pay and discharge the principal of such debt within fifty years from the time of the contracting thereof and shall appropriate annually to the sinking fund moneys in amount sufficient to pay such interest and pay and discharge the principal of such debt when it shall become due and payable.

§ 2. Resolved (if the assembly concur), That the foregoing amendment be referred to the legislature, to be chosen at the next general election of senators, and in conformity to section one, article fourteen of the constitution, be published for three months previous to the time of making such choice.

STATE OF NEW YORK,
IN SENATE, *March* 30, 1908.

The foregoing resolution was duly passed, a majority of all the Senators elected voting in favor thereof.

By order of the Senate.

L. S. CHANLER,
President.

STATE OF NEW YORK,
IN ASSEMBLY, *April* 8, 1908.

The foregoing resolution was duly passed, a majority of all the members elected to the Assembly voting in favor thereof.

By order of the Assembly.

J. W. WADSWORTH, JR.,
Speaker.

CONCURRENT RESOLUTION of the senate and assembly proposing an amendment to section ten of article eight of the constitution, relating to the limitation of the indebtedness of cities and excepting certain kinds of bonds from computation of the debt of a city for purposes of such limitation.

Section 1. Resolved (if the assembly concur), That section ten of article eight of the constitution be amended to read as follows:

ARTICLE VIII.

§ 10. No county, city, town or village shall hereafter give money or property, or loan its money or credit to or in aid of any individual, association or corporation, or become directly or indirectly the owner of stock in, or bonds of, any association or corporation; nor shall any such county, city, town or village be allowed to incur any indebtedness except for county, city, town or village purposes. This section shall not prevent such county, city, town or village from making such provision for the aid or support of its poor as may be authorized by law. No county or city shall be allowed to become indebted for any purpose or in any manner to an amount which, including existing indebtedness, shall exceed ten per centum of the assessed valuation of the real estate of such county or city subject to taxation, as it appears

by the assessment-rolls of said county or city on the last assessment for state or county taxes prior to the incurring of such indebtedness; and all indebtedness in excess of such limitation, except such as now may exist, shall be absolutely void, except as herein otherwise provided. No county or city whose present indebtedness exceeds ten per centum of the assessed valuation of its real estate subject to taxation, shall be allowed to become indebted in any further amount until such indebtedness shall be reduced within such limit. This section shall not be construed to prevent the issuing of certificates of indebtedness or revenue bonds issued in anticipation of the collection of taxes for amounts actually contained, or to be contained in the taxes for the year when such certificates or revenue bonds are issued and payable out of such taxes; nor to prevent the city of New York from issuing bonds to be redeemed out of the tax levy for the year next succeeding the year of their issue, provided that the amount of such bonds which may be issued in any one year in excess of the limitations herein contained shall not exceed one-tenth of one per centum of the assessed valuation of the real estate of said city subject to taxation. Nor shall this section be construed to prevent the issue of bonds to provide for the supply of water; but the term of the bonds issued to provide the supply of water, in excess of the limitation of indebtedness fixed herein, shall not exceed twenty years, and a sinking fund shall be created on the issuing of the said bonds for their redemption, by raising annually a sum which will produce an amount equal to the sum of the principal and interest of said bonds at their maturity. All certificates of indebtedness or revenue bonds issued in anticipation of the collection of taxes, which are not retired within five years after their date of issue, and bonds issued to provide for the supply of water, and any debt hereafter incurred by any portion or part of a city if there shall be any such debt, shall be included in ascertaining the power of the city to become otherwise indebted; except that debts incurred by the city of New York after the first day of January, nineteen hundred and four, and debts incurred by any city of the second class after the first day of January, nineteen hundred and eight, and debts incurred by any city of the third class after the first day of January, nineteen hundred and ten, to provide for the

supply of water, shall not be so included; and except further that any debt hereafter incurred by the city of New York for a public improvement owned or to be owned by the city, which yields to the city current net revenue, after making any necessary allowance for repairs and maintenance for which the city is liable, in excess of the interest on said debt and of the annual instalments necessary for its amortization may be excluded in ascertaining the power of said city to become otherwise indebted, provided that a sinking fund for its amortization shall have been established and maintained and that the indebtedness shall not be so excluded during any period of time when the revenue aforesaid shall not be sufficient to equal the said interest and amortization instalments, and except further that any indebtedness heretofore incurred by the city of New York for any rapid transit or dock investment may be so excluded proportionately to the extent to which the current net revenue received by said city therefrom shall meet the interest and amortization instalments thereof, provided that any increase in the debt incurring power of the city of New York which shall result from the exclusion of debts heretofore incurred shall be available only for the acquisition or construction of properties to be used for rapid transit or dock purposes. The legislature shall prescribe the method by which and the terms and conditions under which the amount of any debt to be so excluded shall be determined, and no such debt shall be excluded except in accordance with the determination so prescribed. The legislature may in its discretion confer appropriate jurisdiction on the appellate division of the supreme court in the first judicial department for the purpose of determining the amount of any debt to be so excluded. No indebtedness of a city valid at the time of its inception shall thereafter become invalid by reason of the operation of any of the provisions of this section. Whenever the boundaries of any city are the same as those of a county, or when any city shall include within its boundaries more than one county, the power of any county wholly included within such city to become indebted shall cease, but the debt of the county, heretofore existing, shall not, for the purposes of this section, be reckoned as a part of the city debt. The amount hereafter to be raised by tax for county or city purposes, in any county containing a city of over one hundred thousand inhabitants, or any such city of

this state, in addition to providing for the principal and interest of existing debt, shall not in the aggregate exceed in any one year two per centum of the assessed valuation of the real and personal estate of such county or city, to be ascertained as prescribed in this section in respect to county or city debt.

§ 2. Resolved (if the assembly concur), That the foregoing amendment be referred to the legislature to be chosen at the next general election of senators, and in conformity with section one, article fourteen of the constitution, be published for three months previous to the time of such election.

STATE OF NEW YORK,
IN SENATE, *April* 21, 1908.

The foregoing resolution was duly passed, a majority of all the Senators elected voting in favor thereof, three-fifths being present.

By order of the Senate,
L. S. CHANLER,
President.

STATE OF NEW YORK,
IN ASSEMBLY, *April* 20, 1908.

The foregoing resolution was duly passed, a majority of all the members elected to the Assembly voting in favor thereof, three-fifths being present.

By order of the Assembly,
J. W. WADSWORTH, JR.,
Speaker.

NAMES CHANGED.

Reports of county clerks of the State of New York showing the names of individuals and corporations changed during the year 1907, pursuant to the provisions of section 2417 of the Code of Civil Procedure:

BROOME COUNTY.

STATE OF NEW YORK,
BROOME COUNTY CLERK'S OFFICE, } *ss.:*

I, John A. Brown, clerk of the county of Broome, and also clerk of the Supreme and County Courts, do hereby certify that the name of the following corporation was changed by order of the Supreme Court during the year 1907:

King's Daughters Hospital of Lester-Shire to Lester-Shire-Endicott-Union Hospital.

Order entered August 6, 1907.

In testimony whereof, I have hereunto set my hand and (Seal.) affixed my official seal this 2d day of January, 1908.

J. A. BROWN,
Clerk.

Endorsed: Filed January 7, 1908.

JOHN S. WHALEN,
Secretary of State.

CAYUGA COUNTY.

To the Secretary of State, Albany, N. Y.:

Pursuant to section 2417 of the Code of Civil Procedure, I hereby certify that an order granted at a Special Term of the Supreme Court, held in the county of New York, borough of Manhattan, on the 9th day of January, 1905, by the Hon. David Leventritt, justice, a certified copy of which was filed in this office April 24, 1907, changing the name of "New York Security and Trust Company" to "The New York Trust Company."

Witness my hand and official seal this 2d day of January, (Seal.) 1908.

C. J. WARNE,
Clerk, Cayuga County.

Endorsed: Filed January 4, 1908.
JOHN S. WHALEN,
Secretary of State.

To the Secretary of State, Albany, N. Y.:

Pursuant to section 2417 of the Code of Civil Procedure, I hereby certify that I am unable to find in this office the entry of any order or authority to change the name of any person during the past year.

Witness my hand and official seal this 2d day of January, (Seal.) 1908.

C. J. WARNE,
Clerk, Cayuga County.

Endorsed: Filed January 4, 1908.
JOHN S. WHALEN,
Secretary of State.

CHEMUNG COUNTY.

CHEMUNG COUNTY CLERK'S OFFICE,
ELMIRA, N. Y., *December* 11, 1907.

To the Secretary of State, Albany, N. Y.:

Sir.— Pursuant to section 2417 of the Code of Civil Procedure, I herewith hand you the following report:

Elmira Heater Company changed to Elmira Heater and Foundry Company.

Order granted June 5, 1906.
Order entered July 7, 1906.

Kelley-Keefe Shoe Company changed to Keefe Brothers Shoe Co.

Order granted July 2, 1907.

Order entered August 9, 1907.

Louis Jerushewitz name changed to Louis Kaplan.

Order granted September 10, 1907.

Order entered September 26, 1907.

Very truly,

O. A. LEONARD,
Deputy Clerk.

Endorsed: Filed December 12, 1907.

JOHN S. WHALEN,
Secretary of State.

COLUMBIA COUNTY.

OFFICE OF CLERK OF COLUMBIA COUNTY, HUDSON, N. Y.

HUDSON, N. Y., *December* 31, 1907.

To HON. JOHN S. WHALEN, *Secretary of State, Albany, N. Y.:*

Dear Sir.— Pursuant to the provisions of section 2417 of the Code of Civil Procedure, I, Robert Storm, clerk of the county of Columbia, N. Y., and also clerk of the Supreme and County Courts, being courts of record held therein, do respectfully report that the following is the only change of name filed in this office during the year 1907:

McNamee Mesh Knitting Company to Columbia Mesh Knitting Company.

Date of order January 5, 1907.

(Seal.) ROBERT STORM,
Columbia County Clerk.

Endorsed: Filed January 2, 1908.

JOHN S. WHALEN,
Secretary of State.

GENESEE COUNTY.

STATE OF NEW YORK,
GENESEE COUNTY CLERK'S OFFICE, } ss.:

I, C. B. Pixley, clerk of said county, do hereby certify that during the year 1907 there were no orders filed in said office relative to change of names of individuals or corporations.

Witness my hand and seal of office this 8th day of Janu-
(Seal.) ary, 1908.

C. B. PIXLEY,
County Clerk.

Endorsed: Filed January 8, 1908.

JOHN S. WHALEN,
Secretary of State.

KINGS COUNTY.

STATE OF NEW YORK,
COUNTY OF KINGS, } ss.:

I, Charles T. Hartzheim, clerk of the county of Kings and also clerk of the Supreme and County Courts, do report and hereby certify that the names of the following persons and corporations have been changed by the said courts during 1907:

Gustave Zieschang to Gustave Rietzel.
Order filed January 8, 1907.

Samuel Feldman to Samuel Fieldman.
Order filed January 14, 1907.

Henry Ireland to Henry Ahrens.
Order filed January 15, 1907.

Solomon H. Barbeck to Sam Barbag.
Order filed January 17, 1907.

Hans H. A. Korneliusen to Hans H. Andersen.
Order filed January 23, 1907.

Henry Werther to Henry Webster.
Order filed January 29, 1907.

William Henry Einhaus to William Henry Enhaus.
Order filed February 2, 1907.

Frank Paul Greenwald to Frank Paul Mittelstaedt.
Order filed February 5, 1907.

Michael Cartulano to Michael Cardlin.
Order filed February 7, 1907.

Leo Harry Levy to Leo Harry Duer.
Order filed February 15, 1907.

Louis Helfan to Louis H. Jarcho.
Order filed February 14, 1907.

Phillip Frances Bieganski to Phillip Frances Biegan.
Order filed February 18, 1907.

Jewish Hospital to Jewish Hospital of Brooklyn.
Order filed February 20, 1907.

George Masters Eve to George Eve Masters.
Order filed February 26, 1907.

David Sklarsky and Kate Sklarsky individually and on behalf of their children, Amy Sklarsky, Arthur Sklarsky and Lotta Sklarsky, to David Saks, Kate Saks, Amy Saks, Arthur Saks and Lotta Saks, respectively.
Order filed February 26, 1907.

Soloman Dukarevitz to Solomon Duke.
Order filed February 27, 1907.

Cooper Diamond Cutting and Polishing Industry of America to Cooper Diamond Company.
Order filed March 2, 1907.

Jacob E. Rosenberg to Jacob E. Rose.
Order filed March 11, 1907.

Sebastiano F. Rapacciuolo to Frank Rapecis.
Order filed March 19, 1907.

Lawrence Gahagan to Lawrence Grattan.
Order filed March 21, 1907.

Americo Alberto Abriola to Albert Americo Lambert.
Order filed March 26, 1907.

American Protective Association to Columbian Protective Association.
Order filed March 29, 1907.

Thorwald Swenson to Thorwald Walter Eastland.
Order filed April 15, 1907.

Charles Mick to Frederick C. Stewart.
Order filed April 16, 1907.

Brooklyn Baptist Church Extension Society to The Baptist Church Extension Society of Brooklyn and Queens.
Order filed April 19, 1907.

Gustav C. Pigorsch to Gustav C. Pelgorsch.
Order filed April 23, 1907.

Harry S. Lazarus, John A. Lazarus and George E. Lazarus to Harry S. Lawrence, Harry G. Lawrence and George E. Lawrence.
Order filed April 23, 1907.

Luis Emiliano Odio to Louis Emiliano Odell.
Order filed April 26, 1907.

Olaf Jensen to Olaf Jensen Linn.
Order filed April 29, 1907.

Meyer Goldsmith to Meyer Smith.
Order filed May 1, 1907.

Max Astrowsky to Max Astor.
Order filed May 10, 1907.

Martin Henry Eicholz to Martin Henry Oakwood.
Order filed March 11, 1907.

Michael Politopoulo to Michael Poulo.
Order filed May 23, 1907.

Charalampos Politopoulo to Charles Poulo.
Order filed May 23, 1907.

Andrew Politopoulo to Andrew Poulo.
Order filed May 23, 1907.

Isaac E. Chadowitz to Isaac E. Chadwick.
Order filed June 3, 1907.

Carl Gustav Modersitzki to Charles Gustav Moore.
Order filed June 9, 1907.

Harris Swirsky to Harris Orowitz.
Order filed June 16, 1907.

Mark Liphshitz to Mark Liebert.
Order filed June 18, 1907.

Oscar F. Ljungman to Oscar F. Youngman.
Order filed June 21, 1907.

Carl J. Ljungman to Carl J. Youngman.
Order filed June 21, 1907.

Louis Germansky to Louis German.
Order filed June 21, 1907.

Benjamin Mendetz to Benjamin Metz.
Order filed August 1, 1907.

Napoleon Skrzyneki to Napoleon Stuart.
Order filed August 5, 1907.

Solomon Blecher to Solomon Ginsburg.
Order filed August 5, 1907.

Charles Tomaselli to Thomas Sails.
Order filed August 8, 1907.

Wolf Gradowsky and Louise Gradowsky individually and on behalf of their children, Max Gradowsky, Gertrude Gradowsky and Regina Gradowsky, to Wolf Gray, Louise Gray, Max Gray, Gertrude Gray and Regina Gray, respectively.

Order filed August 12, 1907.

Julius Isaacs to Julius L. Nova.

Order filed August 23, 1907.

Della Gonorovsky to Della Gaynor.

Order filed September 9, 1907.

Abraham Rochmovitz to Abraham Rockmore.

Order filed September 11, 1907.

Isidor Slonimsky to Isidor Simon.

Order filed September 16, 1907.

Mandel Lipshitz to Mandel Lippet.

Order filed September 17, 1907.

Rafael S. Esteva to Rafael Esteva De Stefani.

Order filed September 26, 1907.

Conrad Smolinski to Conrad Arfeld.

Order filed September 26, 1907.

Charles Supper to Charles Miller.

Order filed October 4, 1907.

Moses Schneider to Marshall Snyder.

Order filed October 7, 1907.

Max Solovatachak to Max Solov.

Order filed October 9, 1907.

Mortimer Blumenrather to Mortimer Blumenrather Hammond.

Order filed October 15, 1907.

Joseph F. Cominsky to Joseph F. Comings.

Order filed October 15, 1907.

David Bergida to David Berger.

Order filed October 16, 1907.

Robert Barshovsky to Robert Robinson.

Order filed October 21, 1907.

Henry Karpenstein, Henry Charles Karpenstein, Emil August Karpenstein, Joseph Oscar Karpenstein, William Karpenstein, Ferdinand Julius Otto Karpenstein, Harry Norman Karpenstein and Clarence Alfred Karpenstein to Henry Karpen, Henry Charles Karpen, Emil August Karpen, Joseph Oscar

Karpen, William Karpen, Ferdinand Julius Otto Karpen, Harry Norman Karpen and Charles Alfred Karpen.
Order filed October 21, 1907.

Louis Lazarowitz to Louis Lorence.
Order filed October 25, 1907.

Louis Harry Fisher to Little Harry Fisher.
Order filed November 11, 1907.

Hulda Schatte to Hulda Helwig.
Order filed November 13, 1907.

Amen Golden to Hyman Golden.
Order filed November 14, 1907.

Charles Browning White to Bouck White.
Order filed November 15, 1907.

Herman Eggeling to Herman Wohlhorn.
Order filed November 18, 1907.

Benjamin Kovensky to Benjamin Koven.
Order filed November 19, 1907.

Harry Josephvitz, individually and as guardian of the persons of Lester Josephovitz and Blanche Josephovitz, to Harı ŕ Josephs, Lester Julius Josephs and Blanche Josephs, respectively.
Order filed December 3, 1907.

Abraham J. Siletzky to Abraham J. Silett.
Order filed December 5, 1907.

Maxwell Adolph Crooke to Maxwell Adolph Croohe.
Order filed December 17, 1907.

Henry Rogozinski to Henry Rogers.
Order filed December 5, 1907.

Edward Wehler to Edward Wheeler.
Order filed December 7, 1907.

Stephen Scotti Sedapedi to Stephen J. Scott.
Order filed December 16, 1907.

Witness my hand and official seal this 31st day of December, 1907.

(Seal.)

CHAS. T. HARTZHEIM,
Clerk of Kings County.

Endorsed: Filed January 3, 1908.

JOHN S. WHALEN,
Secretary of State.

MONROE COUNTY.

MONROE COUNTY CLERK'S OFFICE,
ROCHESTER, *January* 23, 1908.

HON. JOHN S. WHALEN, *Secretary of State, Albany, N. Y.:*

Dear Sir.— Following is a list of the persons and corporations whose names have been changed by order of the courts during the year 1907:

Johanna Louise Gagewski to Johanna Louise West.
Order filed April 18, 1907.

Ida E. Muehle to Ida E. Mells.
Order filed April 19, 1907.

J. Paul Muehle to J. Paul Mells.
Order filed April 20, 1907.

William Bernis Janowsky to William Janowsky Bernis.
Order filed May 10, 1907.

Max Goldstein to Max Wagner.
Order filed December 28, 1907.

Walsh & Kramer Printing Co. to Walsh & McInerney Printing Co.
Order filed January 16, 1907.

Kay Box Lumber Company to Traders Box and Lumber Company.
Order filed June 13, 1907.

Almsted Electric Company to Bryden Electric Supply Company.
Order filed June 14, 1907.

McIntosh & Morgan Co. to McIntosh & Field Co.
Order filed June 24, 1907.

Webster Canning Company to Webster Canning Preserving Company.
Order filed October 28, 1907.

JAMES L. HOTCHKISS,
Clerk.

(Seal.)

Endorsed: Filed January 29, 1908.

JOHN S. WHALEN,
Secretary of State.

NEW YORK COUNTY.

STATE OF NEW YORK,
CITY COURT OF THE CITY OF NEW YORK, } ss.:

Pursuant to section 2418 of the Code, I, Thomas F. Smith, clerk of the City Court of the city of New York, do hereby certify that the names of the following persons have been changed by the said court during the year 1907:

Joseph Holloubeck to Joseph Hollenbeck.
Order filed January 2, 1907.

Joseph Younowitz to Joseph Helman.
Order filed January 11, 1907.

Nathan A. Rich to Nahum A. Reichlin.
Order filed January 22, 1907.

Charles H. Klyachko to Charles H. Glasgow.
Order filed January 25, 1907.

Julius C. Schlamjack to Julius C. Marcin.
Order filed February 18, 1907.

Meyer Rodeschafsky to Morris Meyer.
Order filed February 18, 1907.

Simon M. Adolphus to Simon M. Adler.
Order filed February 20, 1907.

Israel Moses to Israel Miller.
Order filed February 21, 1907.

Samuel Jung to Samuel Young.
Order filed February 21, 1907.

Louis Rosenberger to Louis Berger.
Order filed February 28, 1907.

Harry B. Weigman to Harry B. Wagner.
Order filed March 5, 1907.

Frieda Ascher to Frida Iseli.
Order filed March 11, 1907.

Maurice Flecker to Maurice Fodor.
Order filed March 11, 1907.

Frederick Alexander Liedke to Frederick Liedke Niblo.
Order filed March 13, 1907.

Aristides Capobianco to Aristides Whitehead.
Order filed March 14, 1907.

Amerigo Capobianco to Amerigo Whitehead.
Order filed March 14, 1907.

Titus Capobianco to Titus Whitehead.
Order filed March 14, 1907.
Douglas Ulman to Douglas Fairbanks.
Order filed March 15, 1907.
Walter Frederick Birnbaum to Walter Frederick Burnham.
Order filed March 15, 1907.
David Davis to David Abrams.
Order filed March 18, 1907.
Keren Raftrey to Keren Hayunga.
Order filed March 19, 1907.
Max Kantrowitz to Max Kantor.
Order filed March 20, 1907.
Edward Gorodetzky to Edward Gorodess.
Order filed March 25, 1907.
Vincent Renosarlo to Vincent Reno.
Order filed March 27, 1907.
Mendel Boruszak to Mendel Boruszak de Bor.
Order filed March 28, 1907.
Alexander H. Weinstein to Alexander W. Herman.
Order filed April 1, 1907.
Joseph M. Morgenthaler to Joseph M. Morgen.
Order filed April 15, 1907.
Stanislaus Bronislav Rucinski to Paul B. Bayer.
Order filed April 19, 1907.
Harry Misbinsky to Harry Misbin.
Order filed April 24, 1907.
Mary C. Reed to Mary C. Devere.
Order filed April 26, 1907.
Ella Friedman to Ella Friedman Schnitzer.
Order filed April 27, 1907.
John C. Johnson to John C. Jantzen.
Order filed April 29, 1907.
Hermann Eliwitzky to Hermann Elwyn.
Order filed May 1, 1907.
Charles Rosenbaum to Charles Henry Rose.
Order filed May 2, 1907.
Jonas M. Grosshut to Jonas M. Gross.
Order filed May 3, 1907.
Jacob Rosenzweig to Jacob Rose.
Order filed May 3, 1907.

Jacob Smolensky to Jacob Smolen.
Order filed May 6, 1907.

William Shakespeare Schleuning to William Shakespeare Swift.
Order filed May 9, 1907.

Barnet Shapinsky to Barnet Shapins.
Order filed May 10, 1907.

Arthur Solomon Wilkorisky to Arthur Solomon Wilson.
Order filed May 14, 1907.

Maurice Rosenberg to Maurice Rose.
Order filed May 17, 1907.

Morris Ganzburg to Maurice Gans.
Order filed May 21, 1907.

Sylvius Katzschinsky to Silvius Ketcham.
Order filed May 21, 1907.

Gherman Lazarovice to Gherman Lazar.
Order filed May 23, 1907.

Peter D. Horasandjian to Peter D. Horasan.
Order filed May 23, 1907.

Robert Roy Silverman to Roy Avezzana Floyd-Jones.
Order filed May 25, 1907.

Samuel Barnett to Sam Bernard.
Order filed May 27, 1907.

Abraham R. Cohn to Abraham R. Koen.
Order filed May 29, 1907.

William Feinsilber to William F. Silvers.
Order filed June 6, 1907.

Joseph C. Griffin to Charles B. Austin.
Order filed June 8, 1907.

Abraham Henry Schmigelsky to Henry Smith.
Order filed June 18, 1907.

Leo Lichtenstein to Leo Paul DeLumen.
Order filed June 19, 1907.

Jacques Lichtenstein to Jacques Ralph DeLumen.
Order filed June 19, 1907.

Alfred Lichtenstein to Alfred George DeLumen.
Order filed June 19, 1907.

Bernard Cohen to Bernard Cowen.
Order filed June 28, 1907.

Abraham Jankel Friedman to Adolf James Friedman.
Order filed July 3, 1907.

Minnie Schlobohm to Minnie Hoffman.
Order filed July 3, 1907.
Herman Ely Warshawsky to Herman Ely Warshauer.
Order filed July 6, 1907.
Jacob Brettenheimer to Jacob August Brett.
Order filed July 8, 1907.
Löbl Grunwald to Louis Zauder.
Order filed July 30, 1907.
Aron Grunwald to Aron Zauder.
Order filed July 30, 1907.
Benjamin J. Bockshitzky to Benjamin J. Beck.
Order filed July 31, 1907.
Harry Rabinovitz to Harry Robinson.
Order filed August 5, 1907.
Israel Lipschutz to Israel Laub.
Order filed August 6, 1907.
Martin J. Pfeiffer to Martin J. Potter.
Order filed August 7, 1907.
Jacob Feuerman to Jacob Morris Rose.
Order filed August 16, 1907.
William Joseph Molkenboer to William Joseph Wilkinson.
Order filed August 20, 1907.
Philip Indlow to Robert Nathan Phillips.
Order filed August 21, 1907.
Albert Volnitz to Albert Ehrlich.
Order filed August 22, 1907.
Maurice Herskovitz to Maurice Hirsh.
Order filed August 30, 1907.
Maurice Levitsky to Maurice Lee.
Order filed October 2, 1907.
Jacques Dalstein to Jacques Dalstan.
Order filed October 2, 1907.
Lucy Dalstein to Lucy Dalstan.
Order filed October 2, 1907.
Moses Natolsky to Morris Harris.
Order filed October 9, 1907.
Harry Pfau to Harry Fowler.
Order filed October 9, 1907.
Leon Klimowitzky to Leon Weintraub.
Order filed October 9, 1907.

Morris Lubashevsky to Morris Lubart.
Order filed October 14, 1907.
Anthony Oberstein to Lawrence Marsten.
Order filed October 22, 1907.
Jozef Rozdzial to Joseph Rosdal.
Order filed October 24, 1907.
Henrietta Kellner to Henrietta Brutt.
Order filed October 30, 1907.
Meyer Teterkofsky to Meyer Telmer.
Order filed November 4, 1907.
Fischel Gerschenowitz to George Fischer.
Order filed November 4, 1907.
David Herskowitz to David Harrison.
Order filed November 7, 1907.
George Urhan to George Durhan.
Order filed November 11, 1907.
Jacob Schonfarber to Jacob Schaefer.
Order filed November 11, 1907.
Jacob Schmuckler to Jacob Smithline.
Order filed November 13, 1907.
Moses Slutsky to Morris Slater.
Order filed November 14, 1907.
Louis Slutsky to Louis Slater.
Order filed November 14, 1907.
Albert Slutsky to Albert Slater.
Order filed November 14, 1907.
Charles Slutsky to Charles Slater.
Order filed November 14, 1907.
Johann Moriz Sixtus Gottlicher to Hans Goettich.
Order filed November 18, 1907.
Rubin Golovenchiche to Robert Sperans.
Order filed November 18, 1907.
Newman Dub to Newman Dube.
Order filed November 26, 1907.
Henry Wasiak to Henry Kennedy.
Order filed November 27, 1907.
George Paul Wittfelder to George Paul Wittfield.
Order filed December 4, 1907.
Isidore Engelberg to Isidore Engel.
Order filed December 5, 1907.

Fanny Engelberg to Fanny Engel.
Order filed December 5, 1907.
Lillian Engelberg to Lillian Engel.
Order filed December 5, 1907.
George Rudolph Engelberg to George Rudolph Engel.
Order filed December 5, 1907.
Olga Engelberg to Olga Engel.
Order filed December 5, 1907.
Adolph Engelberg to Adolph Engel.
Order filed December 5, 1907.
Albert Kaufmann to Albert Moore.
Order filed December 13, 1907.
Frank Myslivecek to Frank Hunter.
Order filed December 16, 1907.
Susannah Hallahan to Susannah Randolph.
Order filed December 19, 1907.
John Martin Desormeaux to John Joseph Martin.
Order filed December 23, 1907.
Peter Nick to Peter Nikoly.
Order filed December 24, 1907.
Joseph Burton Fishberg to Joseph Burton Fish.
Order filed December 27, 1907.
Solomon Rothenstreich to Solomon Roth.
Order filed December 28, 1907.

Witness my hand and the seal of said court this 31st day of December, 1907.
(Seal.)

THOMAS F. SMITH,
Clerk of the City Court of the City of New York.

Endorsed: Filed January 2, 1908.
JOHN S. WHALEN,
Secretary of State.

NEW YORK COUNTY.

INDIVIDUALS.

Henry Waldman to Henry W. Walden.
Order filed January 7, 1907.
Abraham Sarachan to Abraham Bloom.
Order filed January 10, 1907.
Benjamin Bendersky to Joseph Benjamin Bender.
Order filed January 11, 1907.

Mordche Jacob Shelcer to Max Jacob Shulte.
Order filed January 21, 1907.
Harry Rindskopf to Harry Renskorf.
Order filed February 7, 1907.
Millie H. Rindskopf to Millie H. Renskorf.
Order filed February 7, 1907.
Joseph Vojtech to Joseph Albert.
Order filed February 8, 1907.
Jacob Sadofsky to Jacob Barandon.
Order filed February 14, 1907.
Kopel Saposnik to Jacob Gamser.
Order filed February 19, 1907.
Stephen Zetz to Stephen Schetz.
Order filed February 21, 1907.
John Alfred Schwabenhausen to John Alfred Schwab.
Order filed February 26, 1907.
Frank George Schwabenhausen to Frank George Schwab.
Order filed February 26, 1907.
Henry Taber Ashmore to Henry Townsend Ashmore.
Order filed February 27, 1907.
Joseph H. Cohen to Joseph C. Halsby.
Order filed February 28, 1907.
Peter Borkowsky to Peter Grody.
Order filed March 1, 1907.
Philip Goldstein to Philip Goldstone.
Order filed March 4, 1907.
Leopold Auerbacher to A. Leopold Auerbach.
Order filed March 6, 1907.
Samuel Schtermann to Samuel Sternman.
Order filed March 6, 1907.
Jacob Hemia Kravetzky to Hyman Funt.
Order filed March 12, 1907.
Louis Guttman to Louis Goodman.
Order filed March 16, 1907.
Louis Solomon to Louis Stillman.
Order filed March 18, 1907.
George Wolf Greenberg to George Wolf Green.
Order filed March 19, 1907.
John Greenberg to John Green.
Order filed March 23, 1907.

Moses A. Abramowitsch to Moses A. Armond.
Order filed April 1, 1907.
Lawrence M. Solomon to Lawrence S. Morris.
Order filed April 1, 1907.
Charles, Carroll Chevalier, James Stewart and Elizabeth Holmes Haseltine to Charles, Carroll Chevalier, James Stewart and Elizabeth Holmes Carstairs.
Order filed April 23, 1907.
Anna Doris Ohlmeyer to Anna Doris Leonhard.
Order filed April 24, 1907.
Edward Francis Horahan to Edward Francis Horan.
Order filed April 26, 1907.
Peter Hanson to John W. Jackson.
Order filed April 30, 1907.
Monroe Redelsheimer to Monroe Redell.
Order filed May 2, 1907.
Hermann Carl Oscar Wiemann to Charles Hermann Oscar Wiemann.
Order filed May 2, 1907.
Isabel G. Britton to Isabel G. Day.
Order filed May 7, 1907.
David Gutowitz to David G. Godwin.
Order filed May 18, 1907.
Movses A. Bagdasarian to Movses B. Adom.
Order filed May 18, 1907.
August F. Pudersack to August F. Perden.
Order filed May 24, 1907.
Simon Levdansky to Simon Leudan.
Order filed May 27, 1907.
Tony Ristuccia to Tony Rush.
Order filed May 29, 1907.
Max Moshinsky to Max Simon.
Order filed June 3, 1907.
Jacob Mansky to Jacob Menson.
Order filed June 5, 1907.
William George Bershadsky to William George Robbins.
Order filed June 11, 1907.
Joseph Charles Skalky to Joseph Charles Scal.
Order filed June 12, 1907.
Alfred McKean to Alfred Edwards.
Order filed June 13, 1907.

Amelia May McKean to Amelia May Edwards.
Order filed June 13, 1907.

Letitia McKean to Letitia Edwards.
Order filed June 13, 1907.

Ernst Busch to Ernst Schaberg.
Order filed June 14, 1907.

Harold Alexis Maurice Adams Baumann to Harold Adams Bauman.
Order filed June 18, 1907.

Herman Hocheiser to Herman Heizer.
Order filed June 22, 1907.

Isaac Stanislawsky to Isaac Stanislaw.
Order filed June 22, 1907.

Julius Lachter to Julius Lichter.
Order filed June 24, 1907.

Albert Ford to Albert Fink.
Order filed June 27, 1907.

Henry Goldstein to Henry Linker.
Order filed June 28, 1907.

Anthon Wuzzer to Anthon Newman.
Order filed July 10, 1907.

Josephine Scott to Josephine McMahon.
Order filed July 10, 1907.

Grace Agnes Scott to Grace Agnes McMahon.
Order filed July 10, 1907.

Kalman, Ida, Ruth and Morris Zelig Yankowitz to Charles Ida, Ruth and Morris Zelig Jacobs.
Order filed July 17, 1907.

Oscar Lifshitz to Oscar Livsitz.
Order filed July 23, 1907.

Nahim Frucks to Nahim Fooks.
Order filed July 24, 1907.

Adolph Joseph Rosenberg to Adolph Joseph Ross.
Order filed July 31, 1907.

Georges Ostreicher to Georges Le Maire.
Order filed August 8, 1907.

Moses Miller Singer to Morton Miller Singer.
Order filed August 9, 1907.

Josiah Moses to Josiah Morse.
Order filed August 14, 1907.

Frank M. Appelbaum to Frank M. Appel.
Order filed August 17, 1907.
Jacob Schlipsky to Jacob Schultz.
Order filed August 20, 1907.
George Dammast Abrahams to George Dammast Reeves.
Order filed August 23, 1907.
Herbert James Abrahams to Herbert James Reeves.
Order filed August 23, 1907.
Joseph Arkiojoglou to Joseph White.
Order filed August 23, 1907.
Erna Schmidt to Erna Petermann.
Order filed August 23, 1907.
Mayer Wolosoff to Mayer Wolff.
Order filed August 30, 1907.
Alfred Reeves Abrahams to Alfred Reeves.
Order filed August 23, 1907.
Frederick William Charles Schmueser to Frederick William Charles Sanford.
Order filed September 6, 1907.
Max Schusterman to Max Kramer.
Order filed September 10, 1907.
Melville G. Weisenbach to Melville G. Steinhardt.
Order filed September 11, 1907.
Amos Weisenbach to Amos Steinhardt.
Order filed September 11, 1907.
Frances Marie Hobbs Yasinski to Frances Marie Young.
Order filed September 18, 1907.
Casimir Ricardo Yasinski to Casimir Ricardo Young.
Order filed September 18, 1907.
David Smargonski to David Smith.
Order filed September 19, 1907.
Harry Gerschafsky to Harry Brand.
Order filed September 20, 1907.
Samuel Gerschafsky to Samuel Brand.
Order filed September 20, 1907.
Robert Blumenthal to Robert Fisher.
Order filed September 24, 1907.
Joseph Linn to Joseph Riemer.
Order filed September 26, 1907.
Samuel Maryanov to Samuel Marion.
Order filed September 30, 1907.

Misha E. Nappelbaum to Misha E. Appelbaum.
Order filed October 3, 1907.
Jacob Pincosowitz to Jacob Kramer.
Order filed October 4, 1907.
Jacob Phillipovitz to Jacob Phillips.
Order filed October 10, 1907.
Mary Huntington Winslow to Mary Stewart Huntington.
Order filed October 15, 1907.
Myron Anson Finkelstein to Myron Anson Finke.
Order filed October 21, 1907.
Albert Lebowitz to Albert Levey.
Order filed October 24, 1907.
Meyer Slatopholsky to Meyer Weiss.
Order filed October 25, 1907.
Abraham Kipnis to Abraham Kipp.
Order filed October 28, 1907.
Saul Lubzansky to Saul Lubell.
Order filed October 28, 1907.
Davis Chyat to David Sobol.
Order filed October 29, 1907.
Anton Howanietz to Anton Hovan.
Order filed October 21, 1907.
Aaron Aronovitz to Aaron Aaron.
Order filed October 30, 1907.
Louis Nabutovsky to Louis Nabut.
Order filed November 4, 1907.
Oscar Pontus Niklasson to Oscar Pontus Nicholas.
Order filed November 6, 1907.
Louis Illofsky to Louis Allen.
Order filed November 15, 1907.
Adolph Lazarowitz to Otto Lorence.
Order filed November 15, 1907.
Samuel Conjowsky to Samuel Cahn.
Order filed November 18, 1907.
Jacob Tuchschnit to Jacob Tushnit.
Order filed November 18, 1907.
Alice Margaret Baker to Gretchen Dale.
Order filed November 20, 1907.
Howard Estabrook Bolles to Howard Estabrook.
Order filed November 20, 1907.

Harriet Belle Sweeten to Harriet Belle Sweet.
Order filed November 20, 1907.
Frederick H. Schwabenhausen to Frederick H. Schwab.
Order filed November 21, 1907.
Pauline Beatrice Libby to Pauline Frederick.
Order filed November 25, 1907.
Frederick Isaacs to Frederick Thomas.
Order filed November 26, 1907.
Morris Slowinsky to Morris Lowen.
Order filed November 27, 1907.
Louis Dombrowsky to Louis Dombro.
Order filed November 29, 1907.
Benjamin Herskowitz to Benjamin Hersch.
Order filed November 29, 1907.
Herman Feiber to Harry Herman Feiber.
Order filed December 6, 1907.
Abraham Goldstein to Abraham Golde.
Order filed December 6, 1907.
Richard James Lapauple to Richard Barnes Laffay.
Order filed December 9, 1907.
Abraham Shmuelovitz to Abraham Samuels.
Order filed December 9, 1907.
Barnett Fox Klivansky to Barnett K. Fox.
Order filed December 12, 1907.
Emil Obermeier to Emil Lang.
Order filed December 19, 1907.

A copy.

(Seal.) PETER J. DOOLING,
Clerk.

Endorsed: Filed February 15, 1908.

JOHN S. WHALEN,
Secretary of State.

NEW YORK COUNTY.

INCORPORATIONS.

Wilcox Chemical Company to Wilcox Turpentine Company of Florida.
Order filed January 17, 1907.

Rambusch Glass and Decorating Company to Rambusch Decorating Company.
Order filed January 18, 1907.

Leslie McHarg & Co. to McHarg-Barton Co.
Order filed January 19, 1907.

Green's to Green.
Order filed January 23, 1907.

The Legal Advice Society of the United States to The United States Legal Corporation.
Order filed February 1, 1907.

Wolff, Levy & Friedenthal, Inc. to Levy & Friedenthal, Inc.
Order filed February 2, 1907.

Standard Pulley Manufacturing Company to Universal Electric Welding Company.
Order filed February 5, 1907.

Pomeroy-Badger Company to Badger-Pomeroy Company.
Order filed February 6, 1907.

Regal Shoe Company (New York Corporation) to Regal Shoe Company (Maine Corporation).
Merger filed February 11, 1907.

New Netherlands Trust Company to Astor Trust Company.
Order filed February 14, 1907.

Sheperd-Burnham Company to Frederick W. Shepperd Publishing Company.
Order filed February 16, 1907.

Tileston & Bernin to C. A. Tileston Company.
Order filed February 19, 1907.

Haskins & Sells, Certified Public Accountants to Haskins & Sells Company.
Order filed February 28, 1907.

Schorer-Weber Candy Company to Creamer-Weber Candy Company.
Order filed February 28, 1907.

Liebes & Taterka, Inc. to Taterka & Livingston, Inc.
Order filed March 4, 1907.

General Realty Company to General Realty and Mortgage Company.
Order filed March 6, 1907.

Ward & Taylor to Ward & Gates.
Order filed March 9, 1907.

Chevra Machsikei Tefila Anshi Stuziner Consolidated with Chevra Anshei Greiver under the name of Chevra Anshei Shzuzin Ye Anshei Grayewo.

Consolidation filed March 13, 1907.

The American Architect Consolidated with Municipal Publishing Company under the name of Swetland Publishing Company.

Consolidation filed March 14, 1907.

The Trustees of the Scotch Presbyterian Church in the City of New York, Consolidated with Reformed Presbyterian Church in the City of New York under the name of The Scotch Presbyterian Church in the City of New York.

Consolidation filed March 19, 1907.

Manhattan Beach Securities Company to Manhattan Beach Estates.

Order filed April 3, 1907.

Heilmann, Loth & Feist to Heilmann, Mandell & Co.

Order filed April 5, 1907.

F. W. Gesswein Company to William Dixon, Incorporated.

Order filed April 10, 1907.

Irving Trust Company to Fidelity Trust Company.

Order filed April 20, 1907.

The Silversmiths Company Consolidated with Silverware Stocks Company under the name of The Silversmiths Company.

Consolidation filed April 22, 1907.

Fifth Avenue and Fourteenth Street Realty Company to Broadway Construction Company.

Merger filed April 22, 1907.

Colonial Trust Company to The Trust Company of America.

Merger filed April 26, 1907.

Charles Lowen Company to Townsend-Odell Company.

Order filed April 27, 1907.

The R. E. Levey & Horcher Company to The Levey & Schattman Company.

Order filed May 3, 1907.

Maynard, Merrill & Co. to Charles E. Merrill Co.

Order filed May 7, 1907.

The Waist Shop Company to S. C. Kraus & Co.

Order filed May 13, 1907.

Employees of Wolff & Levy Benevolent Association to Abraham Wolff Benevolent Society.

Order filed May 16, 1907.

The American Numismatic and Archæological Society to The American Numismatic Society.

Order filed May 17, 1907.

Schenectady & Margaretville Railroad Company Consolidated with Hancock & East Branch Railroad Company under the name of Delaware & Eastern Railway Company.

Consolidation filed May 18, 1907.

L. Berizzi Co. to Berizzi Bros. Co.

Order filed May 23, 1907.

Paul M. Wade Company to National Electric Sign Company.

Order filed May 25, 1907.

Council of the Scientific Alliance in the City of New York. Consolidated with New York Academy of Sciences.

Consolidation filed May 28, 1907.

Metropolitan Associates to Metropolitan Associates of New York.

Order filed May 29, 1907.

The Alexander Cancer Institute to Alexander Hospital.

Order filed June 7, 1907.

North American Mortgage Company Consolidated with Hanover Mortgage Company.

Consolidation filed June 11, 1907.

Walter A. Johnson and Company to Travel Bureau, Incorp.

Order filed June 13, 1907.

Pennsylvania, New York & Long Island Railroad Company merged with Pennsylvania, New Jersey & New York Railroad Company Forming the Pennsylvania Tunnel & Terminal Railroad Company.

Merger filed June 26, 1907.

Association of Manufacturers and Jobbers of Plumbing Supplies to Eastern Supply Association.

Order filed July 16, 1907.

Independent Drug Co. to Dandricide Chemical Co.

Order filed July 2, 1907

John Callan Company to Callan-Federroll Company.

Order filed July 2, 1907.

Kirkpatriek Company to T. Kirkpatrick & Company.
Order filed July 10, 1907.

The Meyer Sniffen Co. Limited to The Meyer Sniffen Co.
Order filed July 11, 1907.

Duryea & Potter to E. G. Potter Company.
Order filed July 11, 1907.

Aitken Realty Company Consolidated with Aitken Construction Company forming the Aitken Realty and Construction Company.
Consolidation filed July 15, 1907.

Consolidated Stock and Petroleum Exchange Building Company to Consolidated Stock Exchange Building Company.
Order filed July 27, 1907.

Schmitt Brothers Consolidated with Tiffany Studios.
Consolidation filed July 29, 1907.

Anthony Ansco Company to Ansco Company.
Order filed August 1, 1907.

McClure, Phillips & Company to The McClure Company.
Order filed August 7, 1907.

A. R. Whitney Jr. & Co. to Whitney-Steen Co.
Order filed August 19, 1907.

Kilian Brothers & Somma to Kilian Brothers.
Order filed August 29, 1907.

Iroquois Construction Company to Electric Power Securities Company of Niagara Falls.
Order filed September 5, 1907.

Bartlett & Company to Bartlett-Orr Press.
Order filed September 6, 1907.

Birmingham Coal Company Consolidated with Birmingham Iron Company forming the Birmingham Coal and Iron Company.
Consolidation filed September 10, 1907.

Brady-Grossman Company to Advanced Amusement Company.
Order filed September 11, 1907.

Gore Duggan Engineering Company to Gore Engineering and Contracting Company.
Order filed September 25, 1907.

William F. Flynn Paper Box Company to John F. Kelly Paper Box Company.
Order filed September 25, 1907.

Schmitt Furniture Company to Schmitt Brothers.
Order filed September 27, 1907.

J. A. Murphy Company to Poyet-Murphy Chocolate Company.
Order filed October 17, 1907.

The Asher-Brohman Co. to Brohman Company.
Order filed October 23, 1907.

B. Waldstein Company to Highland Hat Company.
Order filed October 29, 1907.

Buyers Reference Company to The Gage Publishing Company.
Order filed November 2, 1907.

Baer-Wadsworth Company to Joseph E. Baer Corporation.
Order filed November 8, 1907.

The Gatins Fireproof Construction Company to The Dillman Fireproof Construction Company.
Order filed November 11, 1907.

Viele, Cooper & Blackwell to Viele, Blackwell & Buck.
Order filed November 14, 1907.

Julius Werner & Sommer-Deutsch Company to Werner & Sommer Company.
Order filed November 21, 1907.

Leland & Hall Company to The Leland Company.
Order filed November 25, 1907

The India Rubber & Gutta Percha Insulating Company to Habirshaw Wire Company.
Order filed November 29, 1907.

J. R. Alsing Company to J. R. Alsing Engineering Company.
Order filed December 2, 1907.

The Symes Staten Island Land and Dock Company to Raritan Realty Company.
Order filed December 3, 1908.

First Independent Kraminitzer Benevolent Association, Consolidated with Kishenef and Kraminitzer Congregation Beth David forming the Chevra Beth David Kraminitzer Anshi Poland.
Merger filed December 4, 1907.

Montreal Amusement Company to Quebec Amusement Company.
Order filed December 10, 1907.

Chelsea Trading Company to Jas. G. Johnson & Co.
Order filed December 23, 1907.

Perry Realty & Construction Company to Bliss-Griffiths Construction Company.

Order filed December 24, 1907.

A copy

(Seal.) PETER J. DOOLING,
Clerk.

Endorsed: Filed February 15, 1908.

JOHN S. WHALEN,
Secretary of State.

NIAGARA COUNTY.

NIAGARA COUNTY CLERK'S OFFICE,

LOCKPORT, N. Y., *December* 5, 1907.

HON JOHN S. WHALEN, *Secretary of State, Albany, N. Y.:*

Dear Sir.— In your letter of July 16, 1907, you stated that an annual report should be made in December of the records in this office which show the names of people which have been changed under the statute.

Would state that an order was entered in this office on July 13, 1907, authorizing the change of name of Amanda E. M. Marvin Watters to Amanda E. M. Marvin.

Very truly yours,

HECTOR M. STOCUM,
County Clerk.

Endorsed: Filed December 6, 1907.

JOHN S. WHALEN,
Secretary of State.

ONONDAGA COUNTY.

List of names changed, recorded in Onondaga county during the year, 1907:

Anna Louise Smith to Anna Louise Cary.
January 10, 1907.

Martin Stolusky to Martin Stowell.
April 22, 1907.

STATE OF NEW YORK,
ONONDAGA COUNTY CLERK'S OFFICE, } ss.:

I, James C. Butler, clerk of said county, and of the Supreme and County Courts therein, which are courts of record, do hereby certify that I have compared the foregoing copy of a list of names changed with the original record thereof recorded and now remaining of record in this office and that the same is a correct transcript of said original, and of the whole thereof, and of the endorsement thereon.

In witness whereof, I have hereunto set my hand and (Seal.) affixed the seal of said county and courts at the city of Syracuse this 2d day of January, 1908.

JAMES C. BUTLER,
Clerk.

Endorsed: Filed January 3, 1908.

JOHN S. WHALEN,
Secretary of State.

QUEENS COUNTY.

STATE OF NEW YORK,
QUEENS COUNTY CLERK'S OFFICE, } ss.:

I, John Niederstein, clerk of the county of Queens, and also clerk of the Supreme and County Courts in and for said county, do report and hereby certify that the names of the following persons and corporations have been changed by the said courts during the year 1907:

Joseph Carramore to Joseph Carmo.
Order filed January 23, 1907.

Theodore Stanikowski to Theodore Stanis.
Order filed February 7, 1907.

Oscar Snyder to Charles Oscar Snyder.
Order filed March 11, 1907.

Jos. McGee Brass Foundry Company to Joseph McGee Iron and Brass Foundry Co.
Order filed March 29, 1907.

Charles O'Keefe to Charles McAvoy.
Order filed June 17, 1907.
Ronald James MacPherson to Ronald Stewart MacPherson.
Order filed July 11, 1907.
Marion Kaczorek to Marion Caswell.
Order filed July 29, 1907.
Leon A. Kaczorek to Leon A. Caswell.
Order filed July 29, 1907.
Anna T. Kaczorek to Anna T. Caswell.
Order filed July 29, 1907.
Clara A. Kaczorek to Clara A. Caswell.
Order filed July 29, 1907.
Wanda M. Kaczorek to Wanda M. Caswell.
Order filed July 29, 1907.
Edward T. Kaczorek to Edward T. Caswell.
Order filed July 29, 1907.
Jacob Miller to John C. Slavin.
Order filed August 7, 1907.
John Gillis-Tos to John Gillis.
Order filed October 7, 1907.
Wm. J. Matheson & Co. to Matheson Lead Company.
Order filed November 29, 1907.

Witness my hand and official seal this 4th day of Janu-
(Seal.) ary, 1908.

JOHN NIEDERSTEIN,
Clerk of Queens County.

Endorsed: Filed January 7, 1908.

JOHN S. WHALEN,
Secretary of State.

TIOGA COUNTY.

STATE OF NEW YORK,
TIOGA COUNTY CLERK'S OFFICE, } *ss.:*

Pursuant to requirements of section 2417 of the Code of Civil Procedure, I hereby report the following change of name during the year 1907:

Perley Wayne Towner to Paul Wayne Towner.
Order entered August 5, 1907.

And I further report that there has been no change in the name of any corporation during the year 1907.

In testimony whereof, I have hereunto set my hand and (Seal.) affixed my official seal this 31st day of December, 1907.

WM. B. SMITH,
County Clerk.

Endorsed: Filed January 3, 1908.

JOHN S. WHALEN,
Secretary of State.

WESTCHESTER COUNTY.

COUNTY CLERK'S OFFICE, COUNTY OF WESTCHESTER,
WHITE PLAINS, N. Y., *December* 10, 1907.

HON. JOHN S. WHALEN, *Secretary of State, Albany, N. Y.:*

Dear Sir.— It is possible that we omitted report to you under section 2417 of the Code of Civil Procedure, that an order had been filed in this office on May 10, 1905, changing the name of the Pelham Country Club to the Wykagyl Country Club, and I therefore now wish to make such report.

Yours very truly,
LESLIE SUTHERLAND,
County Clerk.

Endorsed: Filed December 12, 1907.

JOHN S. WHALEN,
Secretary of State.

TABLE

OF

ENERAL LAWS AND SECTIONS OF THE CODES AMENDED OR REPEALED BY THE LAWS OF 1908.

I. General Laws Amended.

Revised Statutes.

rt.	Chapter.	Title.	Section.	SUBJECT OF SECTION.	Chapter.	Page
3	8	16	9, 10; 38, added	Drainage	439	1238
4	3	2	40	Authority of clerk to superintendent of prisons	232	673
4	3	2	57	Duties of prison employees	232	675
4	3	2	75	Salaries of parole board	239	696
4	3	2	76	Meetings of parole board	239	697
4	3	2	110	Prisoners, earnings	232	674
4	3	2	113a, added	Sale of machinery	251	721

Laws.

aws of	Chapter.	Section.	SUBJECT OF SECTION.	Chapter.	Page.
40..	294		Loan commissioners: Duties of	253	724
47..	133	10	Cemeteries: Road through	404	1182
49..	300	3; 5, added	Court of appeals library, Syracuse: Salary of librarian	482	1699
79..	471	1	Prisons: Money and ticket on discharge	94	243
85..	348	10, added	Grand jury stenographers: Substitutes	446	1285
89..	330	1, 3	Deposit of moneys: Register to be kept	185	494
90..	564	61	Stock corporation law: Dissolution	457	1497
90..	565	93	Railroad law: Consents	475	1685

GENERAL LAWS AMENDED — (*Continued*).

Laws of	Chapter.	Section.	SUBJECT OF SECTION.	Chapter.	Page.
			Rapid transit law:		
1891..	4	34f, added, 37	General amendments	472	1675
			General municipal law:		
1892..	685	7	Bonds exempt from taxation	256	728
1892..	685	25b	Acquisition of water rights in Westchester and Putnam counties	259	735
			Legislative law:		
1892..	682	10	General assembly stenographers, compensation	2	12
1892..	682	22	Custody of legislative documents	289	782
1892..	682	44	Statement in session laws	216	537
1892..	682	45	Publication of session laws	216	537
			Executive law:		
1892..	683	43	Collection of notary fees	246	709
1892..	683	83	Notice of appointment	246	709
1892..	683	84	Disposition of fees	246	711
			County law:		
1892..	686	12, sub. 2	Audit by board of supervisors	410	1181
1892..	686	23	Schenectady and Steuben counties, supervisors	438	1226
1892..	686	40, added	Establishment of county laboratories	255	727
1892..	686	41, added	Compensation of bacteriologist	255	727
1892..	686	52	Report of county indebtedness	478	1602
1892..	686	128	Licensing of dogs	373	1124
1892..	686	165	Business hours	42	171
1892..	686	200, sub. 4, added	Duty of district attorney	262	741
1892..	686	202	Assistant district attorneys	165	461
1892..	686	204	Employment of counsel	262	742
1892..	686	205, added	Cost of trial	262	743
1892..	686	222, sub. 38	Salaries of county judge and surrogate, Queens county	374	1126
1892..	686	222, sub. 44	Salaries of county judge and surrogate, Schenectady county	3	14
1892..	686	222, sub. 52	Salary of county judge and surrogate, Tompkins county	77	225
1892..	686	223	Payment of salaries of county judge and surrogate, Broome county	500	1701
			Banking law:		
1892..	689	5	Appointment of deputies	57	198
1892..	689	17	Supervision	143	398
1892..	689	17a, added	Causes for dissolution	143	398
1892..	689	18	Liquidation	143	400
1892..	689	20	Reports of savings banks	123	286
1892..	689	25	Restrictions	169	464
1892..	689	39a, added	Meetings of directors	155	441
1892..	689	39b, added	Official bulletins	158	452
1892..	689	40	Incorporation of banks	125	286
1892..	689	41	Renumbered section 44	125	290
1892..	689	42	Renumbered section 45	125	290
1892..	689	43	Renumbered section 46	125	290
1892..	689	44	Renumbered section 47	125	290

GENERAL LAWS AMENDED — (*Continued*).

Laws of	Chapter.	Section.	SUBJECT OF SECTION.	Chapter.	Page.
			Banking Law—(*Continued*).		
1892..	689	41, added	Notice to be given	125	291
1892..	689	42, added	Certificate by superintendent	125	291
1892..	689	43, added	Examination by superintendent	125	292
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